



W.P.(MD)No.10636 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10636 of 2018
and
W.M.P(MD)Nos.9711 to 9713 of 2018

K.Kalimuthu

... Petitioner

Vs.

1.Tamil Nadu Uniformed Services Recruitment Board,
Rep. by its Member Secretary,
807, 2nd Floor, Anna Salai,
Chennai – 600 002.

2.The Director General of Police,
Mylapore, Chennai – 600 004.

3.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the third respondent in connection with the impugned order of rejection of selection for appointment to the post of Sub-Inspector of Police(Taluk) for the year 2015 vide his proceedings in



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C.No.A2/21544/2015, R.O.O.No.136/2018, dated 05.04.2018 and quash the same as illegal and arbitrary and consequently, direct the respondents to issue appointment order to the petitioner and thereby, treat him on par with his batch mates for all purpose within the time limit that may be stipulated by this Court.

For Petitioner
For Respondents

:Mr.G.Thalaimutharasu
:Mr.Veera Kathiravan,
Special Government Pleader
Assisted by,
Mr.S.P.Maharajan,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned order of rejection of selection for appointment to the post of Sub-Inspector of Police(Taluk) for the year 2015 vide proceedings of the third respondent in C.No.A2/21544/2015, R.O.O.No.136/2018, dated 05.04.2018 and consequently, to direct the respondents to issue appointment order to the petitioner and thereby, treat him on par with his batch mates for all purposes within a stipulated period.



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2. The case of the petitioner is that he applied for the post of Sub-Inspector of Police(Taluk) for the year 2015 and was successful in the written examination and other tests and provisionally selected under open quota. However, on police verification, it was found that there was a criminal case pending against the petitioner for the offence under Sections 147, 447, 379 of I.P.C r/w 21 (1)(5) of Mines and Minerals Development Act, 1957. Thereafter only, the petitioner came to know about the pendency of the criminal case against him before the Juvenile Board, Thoothukudi in Crime No.103 of 2015. Subsequently, the petitioner took all prudent steps and he was acquitted on 19.10.2015. According to the petitioner, the petitioner did not know about the pendency of the criminal case against him when he applied for the post and there was no willful suppression. However, without providing opportunity to the petitioner, the impugned rejection order is passed. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that the petitioner was not aware of the criminal case registered against



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him. He came to know about the same during the interview. However, the said case was concluded, but subsequent to the selection process. Hence, the impugned order of rejection passed by the third respondent relying on the criminal case pending against the petitioner is not sustainable one and hence, prays for allowing of this writ petition.

4. Per contra, the learned Additional Advocate General appearing for the respondents would submit that when the petitioner participated in the selection process, he was eighteen years old and at the time of submitting application, he willfully suppressed the pendency of the criminal case pending against him. Subsequently, he moved for anticipatory bail before this Court. It is seen that the petitioner purposefully suppressed the facts while submitting the application and hence, prays for dismissal of this writ petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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6. Admittedly, the petitioner applied for the post of Sub-Inspector of Police(Taluk) and was successful in the written examination and other tests and was selected under open quota. However, on police verification, it was found that there was a criminal case pending against the petitioner. Hence, the impugned order is passed rejecting selection of the petitioner. Even though the petitioner claims that he did not know about the pendency of the criminal case against him when he applied for the post and he came to know about the same thereafter only, and subsequently, got acquittal in the said case, that is not a ground to claim appointment.

7. The issue raised in this writ petition is no longer *res integra*. In similar issue in ***Satish Chandra Yadav vs. Union of India and Others in Civil Appeal No.6955 of 2022, dated 26.09.2022***, the Hon'ble Supreme Court has held as follows.

“67. Thus, this Court took the view that although employment opportunity is a scarce commodity in the present times being circumscribed within a limited vacancies yet by itself may not suffice to invoke sympathy for grant of relief



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where the credentials of a candidate may raise any question regarding his suitability, irrespective of eligibility. However, at the same time, this Court observed that there should not be any mechanical or rhetorical incantation of moral turpitude to deny appointment in a government service simplicitor which would depend on the facts of each case. The judicial philosophy flowing through the mind of the judges is that every individual deserves an opportunity to improve, learn from the past and move ahead in life for self-improvement. To make past conduct, irrespective of all considerations, may not always constitute justice. It would all depend on the fact situation of the given case.

68. The only reason to refer to and look into the various decisions rendered by this Court as above over a period of time is that the principles of law laid therein governing the subject are bit inconsistent. Even after, the larger Bench decision in the case of Avtar Singh (supra) different courts have enunciated different principles.

69. In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:

a) Each case should be scrutinised thoroughly by the public employer concerned, through its designated officials—more so, in the case of recruitment for the police force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security. [See Raj Kumar (supra)]

b) Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open



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to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for appointment to the post.

c) The suppression of material information and making a false statement in the verification Form relating to arrest, prosecution, conviction etc., has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.

d) The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided.

e) The Court should inquire whether the Authority concerned whose action is being challenged acted mala fide.

f) Is there any element of bias in the decision of the Authority?

g) Whether the procedure of inquiry adopted by the Authority concerned was fair and reasonable?"

8. The principles laid down by the Hon'ble Apex Court is applicable to the case on hand. In view of the same, this Court does not find any irregularity or infirmity in the impugned order passed by the third respondent and hence, this writ petition deserves to be dismissed.



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9. In the result, his Writ Petition is dismissed. No Costs.

Consequently, connected miscellaneous petitions are closed.

28.02.2023

PM

NCC:Yes/No

Index:Yes/No

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M.DHANDAPANI,J.

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