



W.P(MD)No.23034 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 01.11.2022

Pronounced on : 12.05.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23034 of 2022

M.Manimuthu

... Petitioner

Vs.

1.The Director General of Police,
State of Tamil Nadu,
Mylapore, Chennai – 4.

2.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Pandiyan Salai, Elambur, Chennai – 8.

3.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of 3rd respondent made in Na.Ka.No.A2/28885/2021 dated 12.01.2022 and quash the same as



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illegal and consequently direct the 1st respondent to consider the case of the petitioner for appointment to the post of Grade II Constable / Fireman / Jail Warder.

For Petitioner : Mr.M.Suresh Kumar

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.A.K.Manikkam,
Spl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader for the respondents.

2.The writ petitioner belongs to hindu arunthathiyar schedule caste community. His father worked as a Sweeper in Trichy Corporation and he is no more. His mother is also working as a Sweeper. The petitioner is an aspirant for the post of Grade II Police Constable. He had participated in the recruitment process on more than one occasion. Though he was successful in clearing the written test, physical test as well as medical fitness test, he was treated as a disqualified candidate for



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the sole reason that he was involved in three criminal cases namely Crime No.1292 of 2012, Crime No.387 of 2015 and Crime No.68 of 2017 registered on the file of Woraiyur Police Station. Crime No.68 of 2017 was registered only under Section 107 of Cr.P.C. and the petitioner had been discharged in the said case. Crime No.387 of 2015 was registered only under Section 75(i)(c) of TNCP Act and the said case ended in acquittal in CrI.R.C.(MD)No.414 of 2019. Therefore, these two cases will not come in the way. The real impediment for the petitioner is his involvement in Crime No.1292 of 2012 registered for the offences under Sections 294(b), 323, 324 and 506(ii) of IPC. The petitioner figured as the second accused in the said case. It ended in acquittal vide judgment dated 11.06.2015 in C.C.No.145 of 2013 on the file of the learned Judicial Magistrate No.IV, Trichirappalli. However, invoking Explanation (1) to Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules 1978, the department had taken the stand that the petitioner is not qualified to enter police service. To this effect, the impugned memorandum dated 12.01.2022 has been issued by the third respondent herein. Challenging the same, the present writ petition has been filed.



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3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned Additional Advocate General submitted that the impugned order does not warrant interference. He pointed out that the petitioner secured acquittal in C.C.No.145 of 2013 only on the ground of benefit of doubt. He drew my attention to the operative portion of the said judgment and submitted that acquittal on such ground will not inure to the benefit of the candidate. He relied on a catena of decisions including the latest decision of the Hon'ble Apex Court in support of his contention that the Writ Court must apply the rule of disqualification as such and there is no scope for showing any sympathy. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. It is true that the petitioner was implicated in Crime



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No.1292 of 2012 registered on the file of Woraiyur Police Station and the case was also charge sheeted. There were two injured witnesses namely Mohan / P.W.1 and Durairaj / P.W.2. Both the witnesses stood their ground and did not turn hostile. Both of them deposed that the petitioner herein hit them with wooden-log. Yet the case ended in acquittal. The learned trial Magistrate had specifically given a finding that there is considerable discrepancy between the information lodged by P.W.1 before the police and what was deposed in Court. It has also been found by the trial Court that credible and believable witnesses had not been examined. P.W.7 / Dr.Satheesh Kumar had also deposed that the injured victims had stated before him that they were attacked by using iron-rod, brick and sickle. Even according to the witnesses, as far as this petitioner is concerned, he is said to have used only wooden-log. It is true that the trial Court had employed the expression “benefit of doubt”. But this standard expression is used by any Court while acquitting an accused. On a careful reading of the entire judgment, I am satisfied that acquittal of the petitioner must be considered as one on merits. The Explanation (1) to Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules, 1978 will be attracted only if the witnesses had turned



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hostile and the acquittal is on the ground of benefit of doubt. But where the acquittal is on merits, the disqualification clause cannot be invoked.

6.The approach of the local police cannot be lost sight of. Because the petitioner had figured as an accused in a criminal case registered in the year 2012, he was booked under Section 75 of the Tamil Nadu City Police Act and proceedings under Section 107 of Cr.P.C. were initiated two years later. The petitioner had been successful in the recruitment process held in the year 2017. But citing the aforesaid cases, he was not appointed. The petitioner filed W.P.(MD)No.22342 of 2017. On 09.01.2018, the disqualification order was set aside and the authority was called upon to take a decision afresh. The petitioner had taken part in the subsequent recruitment process and again the past continued to haunt him. He filed W.P.(MD)No.3450 of 2020. Even though a learned Judge of this Court allowed the writ petition and called upon the authorities to revisit the issue, again a rejection order was passed. This is the petitioner's third attempt. During the previous rounds, the judgment of acquittal was not examined closely. Since after a careful examination, I am more than satisfied that the judgment of acquittal is on merits and not



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for the reason set out in explanation (1) to Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules 1978, I am of the view that there should not only be interference with the impugned order but a positive Mandamus should be issued by this Court itself.

7.In this view of the matter, the impugned order is set aside and the respondents are directed to appoint the petitioner as Grade II Police Constable. The petitioner will be sent for training at the earliest opportunity subject to administrative constraints. I consciously refrain from stipulating any time line. This writ petition is allowed. No costs.

12.05.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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G.R.SWAMINATHAN, J.

ias

3.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

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