



W.A.(MD) No.1879 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **30.10.2023**

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THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1879 of 2023
and C.M.P.(MD) No.14358 of 2023

Alex Kumar

... Appellant/Writ Petitioner

-Vs.-

1.Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Chairman / Member Secretary,
Recruitment Sub-Committee, Tenkasi Centre,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 008.

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

3.The Superintendent of Police,
Tenkasi,
Tenkasi District.

... Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to
set aside the order dated 13.06.2023 made in W.P.(MD)No.13741 of 2023
on the file of this Court.



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For Appellant : Mr.R.Karunanidhi

For Respondents : Mr.Veera Kathiravan
Additional Advocate General

J U D G M E N T

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

The Writ Appeal on hand has been instituted against the order dated 13.06.2023, passed in W.P.(MD) No.13741 of 2023.

2. The Writ Proceedings was initiated against the non-selection of the appellant for selection and appointment to the post of Grade – II Police Constable to the Tamil Nadu Police Service. It is not in dispute that the appellant participated in the process of selection for appointment to the post of Grade – II Police Constable. The appellant disclosed the material facts in the application relating to the registration of a criminal case. Thus, he was allowed to participate in the process of selection. The authorities competent considered the eligibility and suitability of the appellant for selection and accordingly, rejected the candidature of the appellant. The appellant challenged the said order of rejection dated



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16.05.2023, and the Writ Court considered the principles of law and the fact that the criminal case ended in compromise after filing charge sheet and held that the petitioner is not entitled for the relief and consequently, dismissed the Writ Petition.

3. Learned counsel for the appellant mainly contended that after disposal of the Writ Petition, the Division Bench of this Court considered various issues in a batch of Writ Appeals and pronounced orders on 05.06.2023 in W.A.(MD) No.938 and 939 of 2020 etc., batch. The Division Bench considered the principles based on the judgment of Hon'ble Supreme Court and the High Court and therefore, the learned counsel for the appellant made a request that the case of the appellant is to be considered in the light of the order passed by the Division Bench recently on 05.06.2023.

4. Learned Additional Advocate General appearing on behalf of the respondents raised an objection by stating that the case of the appellant was considered and he was found not suitable for selection and appointment to the post of Grade – II Police Constable and an order of rejection was passed. The said order was challenged and the Writ Court



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dismissed the Writ Petition and therefore, the Writ Appeal is not entertainable.

5. Learned Additional Advocate General relied on the recent judgment of the Apex Court of India in the case of ***State of Madhya Pradesh and others v. Bhupendra Yadav*** reported in ***2023 SCC OnLine SC 1181***, wherein the Supreme Court derives the principles in paragraph 23 to 25 as under:-

“23. This is a classic example of the situation contemplated in para 38.4.3 of *Avatar Singh v. Union of India* (2016) 8 SCC 477 where the charges framed against the respondent herein involved moral turpitude and though he was acquitted on the prosecution witnesses having turned hostile, but given the facts and circumstances of the case which led to his acquittal, we are of the view that the appellant – State Government was well within its right to exercise its discretion against the respondent and terminate his services on the ground that he was unfit for appointment in the police department. Here was a case where the complainant had reneged from the statement made to the police in view of a settlement arrived at with the respondent. It is noteworthy that the incident, subject matter of the criminal case had occurred on 14th February, 2015, and judgement was pronounced by the trial Court on 26th



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October, 2015. In the very next year, when the appellant – State Government invited applications for appointment to the post of Constable, the respondent had submitted his application. Even though this is a case of candid disclosure of the criminal case on the part of the respondent, which had culminated in an acquittal, but having regard to the fact that the prosecution could not succeed in proving the case against the respondent for the reasons noted hereinabove and further, being mindful of the fact that the case involved moral turpitude and the respondent was charged with non-compoundable offences of a serious nature, we are of the firm view that the judgment of the trial Court cannot be treated as a clean acquittal.

24. The aforesaid aspects were rightly factored in by the appellant – State Government while issuing the communication dated 24th August, 2017⁸ and declaring that the respondent was unfit for appointment to the said post. The yardstick to be applied in cases where the appointment sought relates to a Law Enforcement Agency, ought to be much more stringent than those applied to a routine vacancy. One must be mindful of the fact that once appointed to such a post, a responsibility would be cast on the respondent of maintaining law and order in the society, enforcing the law, dealing with arms and ammunitions, apprehending suspected criminals and protecting the life and property of the public at large. Therefore, the standard of rectitude to be applied to any person seeking appointment in a Law Enforcement Agency must



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always be higher and more rigorous for the simple reason that possession of a higher moral conduct is one of the basic requirements for appointment to a post as sensitive as that in the police service.

25. We are, therefore, of the opinion that mere acquittal of the respondent in the criminal case would not automatically entitle him to being declared fit for appointment to the subject post. The appellant–State Government has judiciously exercised its discretion after taking note of all the relevant factors relating to the antecedents of the respondent. In such a case, even one criminal case faced by the respondent in which he was ultimately acquitted, apparently on the basis of being extended benefit of doubt, can make him unsuitable for appointment to the post of a Constable. The said decision taken by the appellant–State Government is not tainted by any malafides or arbitrariness for the High Court to have interfered therewith. As a result, the judgement dated 17th November, 2017, passed by the learned Single Judge is upheld while quashing and setting aside the impugned judgment dated 24th January, 2018, passed by the Division Bench of the High Court. The appeal is allowed. Parties are left to bear their own costs.”

6. The order passed passed by the competent authority, which was under challenge in the Writ Proceedings, reveals that the case of the



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appellant was considered with reference to the facts and circumstances.

The nature of the criminal case registered against the appellant, the charge sheet filed and the compromise between the parties as recorded in Cr.O.P.(MD) No.19406 of 2019 were considered and finally authorities found that the appellant is not suitable for selection and appointment to the post of Grade – II Police Constable.

7. Assessment of suitability and eligibility is the prerogative of the competent Selection Committee and the scope of judicial review cannot be extended so as to interfere with such process. Verification of character and antecedents are of paramount importance more specifically for selection and appointment to uniformed services. The opinion formed by the Selection Committee is final and do not fall within the scope of judicial review, unless such decision has been taken arbitrarily or on extraneous considerations. The case of the appellant was considered by the competent authorities with reference to registration of criminal case and the competent Committee ascertained the eligibility and suitability of the appellant for selection and appointment to the post of Grade – II Police Constable. Learned Single Judge considered the scope of interference and dismissed the Writ Petition. Thus, we do not find any further reason to interfere with the order impugned.



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8. Accordingly, the order impugned dated 13.06.2023, passed in W.P.(MD) No.13741 of 2023, is confirmed and consequently, the Writ Appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S.J.] & [V.L.N.J.]
30.10.2023

NCC :Yes/No
Index :Yes/No
SJ

To

- 1.The Chairman / Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Recruitment Sub-Committee, Tenkasi Centre,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 008.
- 2.The Director General of Police,
Mylapore,
Chennai – 600 004.
- 3.The Superintendent of Police,
Tenkasi,
Tenkasi District.



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AND
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