



W.P(MD)No.19469 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 09.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.19469 of 2016
and W.M.P(MD)No.1354 and 14033 of 2016

P.Eswaran

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Home Department,
Fort St.George,
Chennai 600 009.

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

3.The Commissioner of Police,
Madurai City,
City Police Office,
Madurai – 01.
Madurai District.

4.Tamil Nadu Public Service Commission,
Rep. By its Secretary,
No.3, Frazer Bridge Road,
V.O.C.Nagar, Chennai – 600 003.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in C.No.D2(3)/50678/2015, dated 22.09.2016 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondents No.2 and 3 to provide the No Objection Certificate enabling the petitioner to join in the post of Accountant in Treasuries and Accounts Department, Tamil Nadu Ministerial Service, included in Combined Civil Services Examination-II 2013-14 (Group IIA Services) within the time stipulated by this Court.

For Petitioner : Mr.G.Karthik
For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader
For R4 : Mr.V.Panneer Selvam

ORDER

This Writ Petition has been filed against the proceedings issued by the 3rd respondent in C.No.D2(3)/50678/2015, dated 22.09.2016 as illegal and for a consequential direction to the respondents 2 and 3 to provide No Objection Certificate enabling the petitioner to join in the post of Accountant in Treasuries and



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Accounts Department, Tamil Nadu Ministerial Service, included in Combined Civil Services Examination-II 2013-14 (Group IIA Services) within the time stipulated by this Court.

2. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned Standing Counsel appearing for the 4th respondent and perused the records.

3. The case of the petitioner is that he has joined in Tamil Nadu Special Police on 01.12.2003 as a Grade II Constable. On 01.12.2013, he was promoted as Grade I Police Constable and presently he is working as the Grade I Police Constable in the Armed Reserve Police, Madurai City.

4. The learned counsel for the petitioner submits that with interest to join in the Group II services, the petitioner gave a letter in



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writing to the 3rd respondent seeking permission to apply for the Group II services. It was informed orally that the permission/No Objection Certificate could be taken any time, if he pass in the Group II services examination. He also applied for the Group II services examinations conducted by the 5th respondent and he secured 2408th rank and he attended for certificate verification held on 05.08.2015. He was called for II Phase Counselling held on 05.10.2015 and he attended the same. He was selected as Accountant in Treasuries and Accounts Department, Tamil Nadu Ministerial Service included in Combined Civil Services Examination-II 2013-14 (Group IIA Services). Thereafter, the petitioner approached the 3rd respondent to issue No Objection Certificate to enable him to join duty and the same was getting delayed for a long time. The 4th respondent issued a letter dated 22.02.2016 directing the petitioner to submit all the certificates in original including No Objection Certificate. The petitioner approached the 3rd respondent and also sent several representations



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including the last one dated 08.09.2016. The petitioner also submitted representation to the 4th respondent to grant some time to submit No Objection Certificate. Meanwhile, the 3rd respondent issued impugned order dated 22.09.2016 rejecting the request of the petitioner to grant No Objection Certificate by quoting Rule 34 of Tamil Nadu Subordinate Police Officers Conduct Rules, 1964.

5. The learned counsel for the petitioner submits that Rule 34 of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964 is not applicable to the petitioner's case. Accordingly, he sought to allow this Writ Petition.

6. On behalf of the respondents 1 to 3, a counter affidavit has been filed. It is averred in the said counter affidavit that since the petitioner had not applied for No Objection Certificate before writing examination, the request of the petitioner was rejected and the petitioner has not fulfilled the requirements laid down in Rule 34



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of the Tamil Nadu Subordinate Police Officers Conduct Rules 1964.

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7. The learned Special Government Pleader appearing for the respondents 1 to 3, based on the averments in the counter affidavit, submits that there is no irregularity or illegality in the impugned order and sought to dismiss this Writ Petition.

8. The 4th respondent has filed his counter. Based on the averments made in the said counter affidavit, the learned Standing Counsel appearing for the 4th respondent would submit that unless the petitioner produced No Objection Certificate from his present employer, his request cannot be considered by the 4th respondent.

9. Having heard the submissions of the respective counsels and upon perusal of the materials available on record, in my considered view, it is appropriate to look into Rule 34 of Tamil Nadu Subordinate Police Officers Conduct Rules, 1964, which is



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extracted herein under:

Application by Police Officers for Posts:

(1) A Police Officer who applies for appointment to a service under the administrative control of the Government or to any post therein shall not be eligible for appointment if he has applied without the consent of the head of his office.

(2) A Police officer employed in a service under the administrative control of the Government applying for a post or the training to a post, in another office or department of the State Government or under another State Government or the Central Government shall submit his application through the authority competent to appoint him to the post which he holds at the time of making the applications. Such authority shall decide whether the Police Officer shall be permitted to apply. Permission shall ordinarily be granted unless such authority considers that the grant thereof will not be consistent with the interests of the public service. While granting such permission, the fact that the applicant has been given special training wholly or partly at the cost of the State Government shall also be taken into consideration.



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10. On a careful perusal of Rule 34 of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964, it is clear that a Police Officer, who applies for appointment to a service under the administrative control of the Government or to any post therein, shall not be eligible for appointment, if he applied without the consent of the head of his office.

11. In the present case, it is stated in the affidavit filed by the petitioner along with this Writ Petition that he submitted a letter in writing to the 3rd respondent seeking permission for applying for Group II services. The petitioner could not submit the date of the letter and he is not in a position to place a copy of the letter before this Court.

12. It is also stated that he was informed orally that No Objection Certificate will be issued, if he pass the Group II services examination. This contention is not believable and no Government



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Official will give such assurance to the petitioner contrary to the relevant Rules. It appears all these contentions are invented by the petitioner for filing this Writ Petition.

13. Admittedly, in this case, the petitioner did not submit any application seeking No Objection Certificate/permission from the 3rd respondent to submit an application for attending Group II services examination. As such, in the considered opinion of this Court, the petitioner is not entitled for the relief sought. There is no irregularity or illegality in the order passed by the 3rd respondent, which is impugned in this Writ Petition. The impugned order is in terms of Rule 34 of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. As such, interference of this Court is unwarranted against the order impugned in this Writ Petition.

14. For the above stated reasons, this Writ Petition is dismissed.

15. No costs.

16. Consequently, connected miscellaneous petitions are closed.



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Index : Yes / No
NCC : Yes / No
CM

To,
1.The Secretary,
State of Tail Nadu, Home Department,
Fort St.George,Chennai 600 009.

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

3.The Commissioner of Police,
Madurai City, City Police Office,
Madurai – 01.Madurai District.

4.Secretary,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road,
V.O.C.Nagar, Chennai – 600 003.



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BATTU DEVANAND, J.

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