



W.P(MD)No.24300 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.24300 of 2022

and

W.M.P.(MD)Nos.18399 and 18401 of 2022

D.Sundar

... Petitioner

Vs.

1.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

2.The Director General of Police,
Chennai – 4.

3.Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Complex,
Pantheon Road, Egmore, Chennai – 8,
Represented by its Member Secretary.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent in



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Na.Ka.No. A6/025065/2021 dated 2.3.2022 and to quash the same and directing the respondents to select and appoint the petitioner in the post of Grade II Police Constable with all benefits including seniority on par with his batch mates within the time that may be stipulated by this Court.

For Petitioner : Mr.V.Kannan

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 petitioner belongs to hindu scheduled caste arunthathiyar community. He took part in the petition mentioned recruitment process for the post of Grade II Police Constable. He cleared written test, physical efficiency test and also medical fitness test. However, he is



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being disqualified by the impugned order by citing his involvement in a criminal case. Questioning the same, the present writ petition has been filed.

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 call for any interference. He pointed out that though the criminal case registered against the petitioner ended in acquittal, the acquittal was grounded on benefit of doubt. Therefore, Explanation (1) to Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules, 1978 is attracted. 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 herein was implicated in



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Crime No.199 of 2019 registered on the file of Munneerpallam Police Station, Tirunelveli District. The information was lodged by one Santhanamariappan. The case was charge sheeted and taken on file in C.C.No.820 of 2020 on the file of learned Judicial Magistrate No.V, Tirunelveli. The petitioner was shown the as sole accused. The case of the prosecution was that when the defacto complainant and his brother-in-law / Thangapandi were riding a two wheeler on 02.06.2019 in Tharuvai-Charanmahadevi road, at around 03.30 pm, one Maruthi car bearing registration No.TN 69 D 4431 coming from East hit the two wheeler ridden by the petitioner leading their fall. Thangapandi suffered head injury and died as a result. Santhanamariappan who was riding the two wheeler was examined as P.W.1. Two other persons namely Nambirajan and Balamurugan were examined as eye witnesses. As many as nine witnesses were examined and ten documents were marked. The trial Magistrate vide judgment dated 15.09.2022 acquitted the petitioner. I carefully went through the contents of the judgment. Nambirajan as well as Balamurugan had categorically deposed that they came to the spot after hearing the sound of collision. The trial Magistrate had clearly noted that neither P.W.2 nor P.W.3 had witnessed the occurrence. P.W.1



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had also not seen the petitioner. Section 304(A) of IPC would be attracted if due to rash and negligent act, a fatal accident had occurred. Obviously, there is no criminal intent involved. What happened was a pure accident. Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules, 1978 reads as follows:-

“Rule 14(b): No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority

- (i) that he is of sound health, active habits and free from any bodily defect or infirmity unfitting him for such service and*
- (ii) that his character and antecedents are such as to qualify him for such service and*
- (iii) that such a person does not have more than one wife living.*
- (iv) that he has not involved in any criminal case before police verification.*

Explanation (1): *A person who is acquitted or discharged on benefits of doubt or due to the fact that the complainant turned hostile shall be treated as person involved in a criminal case.*

Explanation (2): *A person involved in a criminal case at the time of police verification and the case yet to be disposed of and subsequently, ended in honourable acquittal or treated as mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment only by participating in*



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the next recruitment.”

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Clause (i) refers to the active habits of the candidate. Clause (ii) talks about character and antecedents. Clause (iii) insists on monogamous relationship. Clause (iv) is to the effect that the applicant should not be involved in any criminal case before police verification. The expression “any criminal case” if applied literally can lead to unfortunate consequences. Bearing this in mind, the Director General of Police had issued instructions vide office memo dated 17.12.2015 holding that petty cases should not lead to over penalization. This policy of the State was reiterated vide letter bearing R.C.No.001455/Rect1(2)/2021 dated 22.02.2021 issued by the Director General of Police of Tamil Nadu. It clearly indicates that candidates involved in accident cases can be considered if the case was pending at the time of police verification and if there is no suppression of fact. In the case on hand, the petitioner has not suppressed the said fact. It had eventually ended in acquittal. The trial Court though had used the expression “benefit of doubt” had actually held that there is no material to fasten any liability on the petitioner. In my view, the petitioner secured acquittal on merits. Even



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otherwise, it is only an accident case and therefore implication of the petitioner in such a case cannot lead to his disqualification.

6.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. He shall be sent for training at the earliest opportunity. I however consciously refrain from stipulating any time limit. The writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

12.05.2023

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

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Tirunelveli.
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G.R.SWAMINATHAN, J.

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