



W.A.(MD) No.1496 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A.(MD) No.1496 of 2022
and C.M.P.(MD)No.12438 of 2022

1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 008.

2.The Director General of Police / Director,
Fire & Rescue Services,
Chennai – 8.

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

... Appellants

Vs.

Balamurugan

... Respondent



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WEB COPY PRAYER: Appeal - filed under Clause 15 of the Letters Patent against the order passed in W.P.(MD).No.10927 of 2022 dated 26.08.2022.

For Appellants : Mr.Veera Kathiravan,
Additional Advocate General
assisted by
Mr.K.Balasubramani,
Special Government Pleader
For Respondent : Mr.R.Venkatesan

JUDGMENT

[Judgment of the Court was delivered by D.KRISHNAKUMAR, J.]

This Writ Appeal has been filed against the order passed in W.P.(MD).No. 10927 of 2022, dated 26.08.2022.

2. The respondent / writ petitioner has applied to the post of Grade – II Firemen in the Tamil Nadu Uniformed Services in the year 2020 and he was provisionally selected by the Recruitment Board. However, his candidature's was rejected due to his prior involvement in a criminal case. Aggrieved against



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the non-selection of his candidature, the respondent / writ petitioner has filed a writ petition in W.P.(MD)No.10927 of 2022. The Writ Court, relying upon the proceedings issued by the Director General of Police in Rc.No.001455/Rect1(2)/2021, dated 22.02.2021, allowed the Writ Petition, by directing the second appellant to forthwith pass orders granting posting orders to the respondent / writ petitioner, for the post of Grade II Firemen under the notification for common recruitment for the posts of Grade II Police Constables (Armed Reserve, Tamil Nadu Special Force), Jail Warder and Firemen in the Tamil Nadu Uniformed Services Recruitment Board for the year 2020, within a period of four weeks from the date of receipt of a copy of that order. As against the same, the appellants have filed this Writ Appeal.

3. The learned Additional Advocate General appearing for the appellants submitted that based on the guidelines issued by the Director General of Police, the learned Single Judge allowed the writ petition. However, the said guidelines pertaining only to appointment of Police Constables in Tamil Nadu Police Subordinate Service and not pertaining to Grade II Firemen in Tamil Nadu Fire



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Subordinate Service and therefore, the order of the learned single Judge warrants interference. He further submitted that the character and antecedents of the candidates to be verified for the selection to the posts of Grade II Police Constables (Armed Reserve, Tamil Nadu Special Force), Jail Warder and Firemen in the Tamil Nadu Uniformed Services Recruitment Board for the year 2020. The learned Single Judge without considering the said fact, allowed the writ petition and therefore, the order of the learned Single Judge is liable to be set aside.

4. The learned counsel appearing for the respondent / writ petitioner submitted that the criminal case registered against the respondent / writ petitioner in Crime No.146/2013 by the Othakadai Police Station, when he was Juvenile, was terminated as per Rule 8-A(9) of the Tamil Nadu Juvenile Justice (Care & Protection) Amended Rules, 2012 by the Juvenile Justice Board, Madurai, since the police failed to complete investigation as per 95 (20) of TNJJ Rules. He further submitted that the writ Court has rightly followed the guidelines issued by the Director General of Police, dated 22.02.2021 and



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allowed the writ petition. He further submitted that even for the sake of arguments that the said guidelines has not been applied for the instant case, the respondent / writ petitioner is having a very good case under Section 24 of the Juvenile Justice (Care & Protection of Children) Act, 2015, which clearly states that a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law. In view of the aforesaid Act, the appellants cannot reject the candidature of the respondent / petitioner. Therefore, the order passed by the learned single Judge is perfectly valid and hence, this Writ Appeal is liable to be dismissed.

5. We have heard the learned counsel appearing on either side and perused the materials available on record.

6. The point for consideration in the writ appeal is whether the rejection of the respondent / writ petitioner's candidature is perfectly in consistence with Section 24 of the Act and the guidelines issued by the Director General of



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Police. The primordial contention of the appellants is that the learned single Judge has wrongly relied upon the guidelines issued by the Director General of Police, dated 22.02.2021. In sub-class (iii) of clause 8 of the the aforesaid guidelines, clearly states that the persons released under Juvenile Act were treated as not involved in a criminal case. Section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000 which stipulates that a juvenile has committed an offence and has been dealt with under provision of this act shall not suffer disqualification, if any attached to conviction of an offence under such law. Therefore, in the light of the aforesaid guidelines, the writ Court has considered the case of the respondent / writ petitioner and allowed the writ petition. Even for the sake of arguments that the said guidelines has not been applied to the facts of this case, we examine Section 24 of the Juvenile Justice (Care and Protection of Children) Act, 2000, in which it is stated as follows:

“24. Removal of disqualification on the findings of an offence:-

(1) Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under



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Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the Children's Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.

(2) The Board shall make an order directing the Police, or by the Children's court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed:

Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children's Court.”

7. Further, the learned counsel for the respondent / writ petitioner has relied upon the proceedings of the Juvenile Justice Board, Madurai, wherein it has been held as follows:

“In case the police fails to complete investigation within a specified period the board shall fix a date for final enquiry after service notice to be present and adjudicate the dispositions on the basis of materials available before it. Despite notice being served



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no steps have been taken by the police, neither extension of time was sought by police. The period of limitation prescribed under the Juvenile Justice Act is over. The FIR is pending before this Board since 21.03.2013 and hence further proceedings are terminated as per Rule 8-A(9) of the Tamil Nadu Juvenile Justice (Care & Protection) Amended Rules 2012 since police failed to complete investigation as per 95(20) TNJJ Rules.”

Therefore, as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 as well as the findings of the Juvenile Justice Board, Madurai, we are of the view that the appellants cannot reject the candidature of the respondent / writ petitioner on the ground that he was involved in a criminal case. In respect of the submission of the learned Additional Advocate General appearing for the appellants that the character and antecedents of the candidates to be verified for selection to the aforesaid posts is concerned, we are of the view that there is some force on the aforesaid submission, since the said aspect has not been considered by the learned single Judge. Therefore, the order of the learned single Judge warrants interference to that extent alone. Hence, we are inclined to pass the following order:



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The order of the learned Single Judge made in W.P. (MD)No.10927 of 2022 is set aside and the appellants are directed to consider the respondent / writ petitioner's candidature for the post of Grade II Firemen in the next selection process. It is made clear that if the petitioner is selected for the said post, he shall not seek for seniority or other monetary benefits, on par with the successful candidates under the common recruitment notification for the year 2020 and that his services will be reckoned from the date of the appointment order.

8. With the above modification, this Writ Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

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