



W.P.No.5029 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.5029 of 2021
and W.M.P.No.5617 of 2021

R.Venkateswaran

... Petitioner

/vs/

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

2. The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Anna Salai,
Chennai – 600 002.

3. The Superintendent of Police,
District Police Office,
Cuddalore District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to quash the order dated 09.03.2020 passed by the third respondent vide C.No.A4/14450/2019 and direct the respondent to consider the candidature of the petitioner for appointment as



W.P.No.5029 of 2021

Grade II Police Constable.

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For Petitioner ... Mr.K.Ravi Anandhapadmanabhan
Senior Counsel
for Mr.B.Thirumalai

For Respondents ... Mr.S.Arumugam
Government Advocate for R1&R3

Ms.D.Sowmi Dattan
Standing Counsel for R2

ORDER

Heard Mr.K.Ravi Anandhapadmanabhan, the learned Senior Counsel for the petitioner, Mr.S.Arumugam, the learned Government Advocate, for R1 and R3 and Ms.D.Sowmi Dattan, the learned Standing Counsel for R2.

2. The petitioner has filed this writ petition challenging the order passed by the third respondent in C.No.A4/14450/2019 dated 09.03.2020 and direct the respondents to consider the candidature of the petitioner for appointment as Grade II Police Constable.

3.The petitioner who got selected to the post of Grade II Police Constable was not given with the appointment order in view of the fact that police verification went against him. In the impugned order dated



W.P.No.5029 of 2021

09.03.2020 it is stated that the petitioner has suppressed the information about the petitioner's involvement in the earlier criminal cases in Cr.No.11 of 2017 filed under Section 107 Cr.P.C. and Cr.No.7/2017 filed under Section 147, 294(b), 427, 506(ii) IPC.

4. Mr.K.Ravi Anandhapadmanabhan, the learned Senior Counsel for the petitioner, submitted that the petitioner got acquitted in the above cases before 16 months on submitting the application to the post of Grade II Police Constable; hence the petitioner had a wrong impression that he need not give any particulars about the earlier cases; the petitioner had not committed the mistake wantonly.

5. Ms.D.Sowmi Dattan, the learned Standing Counsel for the second respondent, submitted that the petitioner did not give the relevant particulars in the verification form even though it is in an understandable language that the candidate ought to furnish his past involvement in any criminal case. It is further submitted that the case has been ended in compromise and it is not a honourable acquittal.



W.P.No.5029 of 2021

6. At the time when the application was submitted by the petitioner, there was no case pending against him. On that score the above case which was registered against him on 29.01.2017 was also ended in acquittal on compromise on 07.09.2017. The fact that the said case has been compounded and was not pending at the time when the petitioner had submitted his application was not denied by the respondents. But the only allegation that has been made by the respondents is that the petitioner did not state the above information and he suppressed the same.

7. The offences for which the petitioner has been charged in the above case is not for the offence of moral turpitude. Mere suppression of information cannot be presumed to be an intentional one. The law on this point is well settled in the Full Judgment of the Hon'ble Supreme Court in *Avatar Singh Vs. Union of India and others* reported in (2016) 8 SCC 471 wherein it is held that though a person who had suppressed the material information cannot claim unfettered right for appointment of continuity of service, he cannot be dealt arbitrarily on the special circumstances of the case if any. The position settled on this point has been subsequently adopted by another judgment of the Division Bench of the Hon'ble



W.P.No.5029 of 2021

Supreme Court held in ***Ravindar Kumar Vs. State of U.P. & ors., in C.A.No.5902/2012 dated 22.02.2023*** wherein it is held that the matter has to be appreciated in a holistic manner based on a objective criteria. It is worthwhile to extract the relevant portion of the said judgment:

“ 30. On the facts of the case and in the backdrop of the special circumstances set out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can be deemed fatal for the appellant. Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario.”

8. In fact another Division Bench of this Court has also held in categorical terms that mere filing of an application suppressing the details of criminal case cannot be taken as suppression of facts. It is obviously because at the time when the application was filed there is no case pending against the petitioner in view of the compromise entered into between the parties. For a better clarity the relevant paragraphs is extracted hereunder:



“9.Concededly, the respondent was involved in a criminal case in Cr.No.289 of 2014, which ended in acquittal, by judgment dated 25.04.2018 in CC No.132 of 2017 passed by the Judicial Magistrate, Kangeyam. Thereafter, he applied for the post called for in the notification dated 08.03.2019 issued by the fourth appellant Board and he successfully cleared the examinations, but the respondent was not issued with the order of appointment. By the order dated 25.05.2021, his candidature was rejected mainly on the ground that he had suppressed the criminal case registered against him, while making application for recruitment. Whereas, the documents enclosed in the typed set of papers would candidly go to show that that the criminal case said to have been registered against the respondent, ended in acquittal prior to the issuance of the Recruitment Notification itself and thus, there was no pendency of criminal case at the time of making application. In such circumstances, a normal prudent candidate is expected to fill up the column pertaining to ‘Additional Details – Whether any criminal case have been filed against you?’, in the application for Sub Inspector of Police (TK, AR, TSP) – 2019, as ‘No’. Accordingly, the respondent stated ‘No’ in the application. In view of the same, the question of suppression of criminal case registered against the respondent earlier in the selection, does not at all arise.

10.It is also to be noted that the criminal case was registered against the respondent due to a petty quarrel with the neighbour, and that, the trial court, after examining the oral and



W.P.No.5029 of 2021

documentary evidence made available before it, and also based on the compromise entered into between the parties, acquitted the accused from the charges, which according to the appellants, was not a honourable acquittal and hence, the candidature of the respondent for appointment was rejected by the order impugned in the writ petition.”

9. The candidature of the petitioner cannot be simply rejected without validating the totality of the circumstances. So far as the acquittal pursuant to compromise is concerned, it cannot be read as acquittal on benefit of doubt. In fact the acquittal on compromise does not even give any scope for further appeal. Hence, the matter has attained finality. Since the petitioner happened to submit the application after 16 to 17 months he would obviously thought it unnecessary.

10. The effect of acquittal by compromise has been discussed and dealt by the Hon'ble Supreme Court in ***Commissioner of Police Vs. Sandeep Kumar reported in (2011) 4 MLJ 1006*** that the acquittal on compromise cannot be meant that the petitioner has admitted his guilt. The denial of appointment of such technical aspect cannot be viewed as a fair approach on the side of the employer.



W.P.No.5029 of 2021

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11. However, the learned Standing Counsel for the second respondent relied on the judgment of the Hon'ble Supreme Court held in ***State of Madhya Pradesh and others Vs. Bhupendra Yadav reported in 2023 SCC OnLine SC 1181*** in support of his contention that mere acquittal in a criminal case would not automatically entitle the applicant qualified for appointment. Even in that judgment it is held that the Government has judicially exercised its discretion after taking note of the relevant factors relating to the petitioner.

12. As stated already, the petitioner was not involved in a case involving moral turpitude which is the subject matter of ***Bupendra Yadav's case (supra)***. Hence the above case is not applicable to the facts involved in the present case.

13. There are no reasons to reject the appointment to the petitioner on the ground that he had suppressed an material particulars without considering the facts and circumstances in a holistic manner. Hence, I feel the impugned order is liable to be quashed.



W.P.No.5029 of 2021

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14. In the result the writ petition is allowed and the impugned order passed by the third respondent in C.No.A4/14450/2019 dated 09.03.2020 is hereby quashed and the respondents are directed to consider the candidature of the petitioner for appointment as Grade II Police Constable. No costs. Connected miscellaneous petition is closed.

13.03.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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W.P.No.5029 of 2021

R.N.MANJULA ,J.

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To:

- 1.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai – 600 004.
2. The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Anna Salai,
Chennai – 600 002.
3. The Superintendent of Police,
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W.P. No.5029 of 2021

13.03.2024