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W.P.No.5156 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5156 of 2024

C.Ajithkumar

...Petitioner

-Vs-

1.The District Superintendent of Police,
Kallakurichi District,
Kalaivani Nagar, Kottaimedu,
Kallakurichi – 606 202.

2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Police Commissionerate Compound,
Pantheon Road, Egmore,
Chennai – 600008.

3.The Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Police Commissionerate Compound,
Pantheon Road, Egmore,
Chennai – 600008.

4.The Director-General of Police,
Tamil Nadu Police, Police Headquarters,
Chennai – 600004.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to the impugned order passed by him in proceedings



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No. Na.Ka.No.A2/4324/2023 dated 12.05.2023 and quash the portion in para 2 thereof referring to suppression of involvement in criminal case and direct the respondents to take steps for appointing the petitioner to the post of Constable Grade-II once the petitioner is acquitted in criminal case in C.C.No.98 of 2023, pending before the Judicial Magistrate No.I Court, Ulundurpet.

For Petitioner : Mr.M.Elumalai
For R1 : Mr.K.Tamilvendan
Government Advocate
R2 & R3 : Mrs.D.Sowmi Dattan
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 12.05.2023, thereby rejected the candidature of the petitioner to the post of Constable Grade-II.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was qualified with B.E. Mechanical Engineering and as per the notification, he applied for the post of Police Contable Grade-II. The petitioner cleared the written examination and underwent physical eligibility test. Even after certificate verification, by an order dated 12.05.2023, the petitioner was not selected and the petitioner was informed that he was not



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selected for appointment to the post of Constable Grade-II and as he was involved in a criminal case in Crime No.688 of 2020 on the file of the Ulundurpet Police Station, Kallakurichi which was suppressed by the petitioner.

4. The learned counsel appearing for the petitioner would submit that the petitioner did not have any knowledge about the registration of the FIR in Crime No.688 of 2020 against the petitioner. During COVID-19 lockdown, there was a quarrel between other persons, in order to negotiate the parties, he intercepted between these two parties. Therefore, the petitioner never involved in any crime and he has been falsely implicated in the criminal case. That apart, the petitioner was never suppressed any fact. In support of his contention, he relied upon the Judgment of the Hon'ble Supreme Court of India reported in **(2016) 8 SCC 471** in the case of ***Avtar Singh Vs. Union of India***.

5. A perusal of the records reveals that the petitioner was involved in a criminal case registered in Crime No.688 of 2020 for the offences under Sections 147, 148, 294(b), 307, 323, 324, 506(ii) of IPC r/w.4 of TNWH Act @ 147, 148, 294(b), 323, 324, 506 (ii) of IPC on the file of the Inspector of



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Police, Ulundurpet Police Station, Kallakurichi. After completion of investigation, a final report was filed and the same has been taken cognizance in C.C.No.98 of 2023 on the file of the Judicial Magistrate No.I, Ulundurpet, which is pending for trial. It is relevant to extract the dictum laid down in the case of the ***Avtar Singh Vs. Union of India*** reported in ***(2016) 8 SCC 471***, wherein this Court held as follows :

38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted : -



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38.4.1. *In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.*

38.4.2. *Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.*

38.4.3. *If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.*

38.5. *In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.*

38.6. *In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.*

38.7. *In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.*

38.8. *If criminal case was pending but not known to the candidate at the time of filling the form, still it may have*



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adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.

6. Thus, it is clear that in case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.



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7. In the case on hand, admittedly, the petitioner suppressing the fact that the he had already involved in a criminal case in Crime No.688 of 2020 on the file of the Inspector of Police, Ulundurpet Police Station, Kallakurichi. In fact, if acquittal has already been recorded in a case involving moral turpitude or offence of heinous/serious nature on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee. Even if the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents and cannot be compelled to appoint the candidature. Therefore, this Court finds no infirmity or illegality in the order dated 12.05.2023 passed by the first respondent. Thus the writ petition is devoid of merits and is liable to be dismissed.

8. Accordingly, this Writ Petition stands dismissed. No costs.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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G.K.ILANTHIRAIYAN. J,

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To

- 1.The District Superintendent of Police,
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