



W.P.No.5433 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

**W.P.No.5433 of 2020**

**and**

**W.M.P. No. 6358 of 2020**

V.Muniappan

... Petitioner

Vs.

1. The Chairman,  
The Tamil Nadu Uniform Services Recruitment Board,  
Chennai – 600 008.

2. The Director General of Police,  
Santhome High Road, Chennai.

3. The District Superintendent of Police,  
Dharmapuri District, Dharmapuri.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order passed by the third respondent vide his proceedings in Na.Ka.No.A2/20700/2017 dated 09.10.2017 and to quash the same as illegal, incompetent and ultravires and thereby consequently directing the respondents to appoint the petitioner in the post of Police Constable Grade-II.

For Petitioner : Mr. M.Selvam

For Respondents : Mr. A.M.Ayyadurai,



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Government Advocate

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## **ORDER**

The instant Writ Petition has been filed challenging the order dated 09.10.2017, passed by the third respondent, thereby cancelling the appointment of the petitioner on the ground of questionable antecedents.

2. The learned counsel for the petitioner would submit that the petitioner had applied for the post of Grade-II Police Constable in furtherance of the notification dated 23.01.2017, and that on the date of submitting his application, he did not know about the pendency of criminal case. In such view of the matter, he was not in a position to mention about the criminal case in his application, and such an act could only be termed as negligence, and cannot be elevated as *mala fide* act on his part. Hence, he prayed to interfere with the order of the third respondent.

3. Per contra, the learned Government Advocate appearing for the respondents would vehemently contend that the first respondent had issued a notification on 23.01.2017, calling for applications for the post of Grade-II



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Police Constable. Whereas, on 15.01.2017, there was an FIR registered against the petitioner, and subsequently, on 25.01.2017, the petitioner had moved an anticipatory bail application. As such, even on 25.01.2017, the petitioner knew about the pendency of the criminal case. However, while submitting his application on 22.02.2017 for the query “whether any criminal case had ever been registered against him” under column 26, he replied "No". This conduct is contrary to Rule 14(b)(ii) and (iv) of the Tamil Nadu Special Police Subordinate Service Rules (hereinafter referred to as 'the Rules' for short), and amounts to suppression of fact. Hence, he would contend that the rejection of the petitioner's application is valid, and prayed to dismiss this application.

4. I have given my anxious consideration to the submissions made on either side.

5. It is employers prerogative to know about the antecedents of their prospective candidates, but the ultimate action of the employer should be based upon objective criteria and on due consideration of all relevant facts. Further, though the employer has discretion to terminate or condone the



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omission, such order should be in accordance with relevant Rules.

6. In the present case, according to the learned Government Advocate, persons involved in a criminal case are ineligible for appointment as Police under Rule 14(b)(ii) and (iv) of the Rules. In the case in hand, the petitioner, despite being involved in a criminal case and aware of its pendency as early as on 25.01.2017, knowingly provided false information in his application dated 22.07.2017, as if he never involved in any criminal case.

7. Before delving into the other merits of the matter, this Court deems it appropriate to extract the judgement of the Full Bench of the Hon'ble Supreme Court of India in the case of ***Avtar Singh vs. Union of India and others***, reported in ***(2016) 8 SCC 471***. The relevant paragraph is paragraph No. 13 (or 38.4.3) and the same reads as follows:-

*“38.4.3.If acquittal had already been recorded in 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”*



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8. In the case in hand, the facts squarely come within the ratio of the above judgment. Here the petitioner knew about the pendency of the criminal cases, in such view of the matter it must be construed as false declaration of the petitioner. Such conduct, as rightly submitted by the third respondent, can be avoided by the employer, as they have the discretion to deny recruitment of persons with bad antecedents. Therefore, this Court finds no merit in the Writ Petition.

9. In the result, the instant Writ Petition is dismissed. However, it is made clear that the petitioner is at liberty to participate in the ensuing recruitment, if he is otherwise eligible. Consequently, the connected Miscellaneous Petition is closed. No costs.

**21.10.2024**

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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**C.KUMARAPPAN, J.**

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