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W.P.No.6733 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2024

CORAM:

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

W.P.No.6733 of 2022

W.M.P.No.6817 of 2022

S.Arulpandiyan

... Petitioner

-Vs -

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

2. The Superintendent of Police,
Villupuram District,
Villupuram.

3. The Member Secretary,
The Tamilnadu Uniformed
Service Recruitment Board,
Old Police Commissioner Office Complex,
Pantheon Road, Egmore,
Chennai – 8.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Ref.No.Na.ka.A2/30052/2020, dated 04.01.2022 and quash the same and consequently to direct the respondents to appoint the petitioner as Grade-II Police Constable.



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For Petitioner : Mr.D.Senthilkumar
For Respondents
For R1 & R2 : Mr.V.Veluchamy
Additional Government Pleader
For R3 : Mrs.D.Sowmi Dattan
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 04.01.2022, thereby rejected the candidature of the petitioner to the post of Grade-II Police Constable.

2. The petitioner had applied for the post of Police Constable Grade-II, as per the notification issued by the third respondent in the year 2020. The petitioner had qualified in the written examination and also in the physical measurement test, entrance test, physical efficiency test and medical test etc. Thereafter, certification verification was also over and he came out successful in the aforesaid stages of selection.

3. While being so, the petitioner received communication from the second respondent stating that on verification of previous antecedent, his conduct was not good and not satisfactory one, since he was involved in a criminal case in Cime No.213 of 2015 registered for the offence



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under Section 379 of IPC and he was acquitted under Section 320(8) of Cr.P.C., by an order dated 06.10.2015 in C.C.No.260 of 2015 on the file of the learned Judicial Magistrate, Thirukovilur.

4. The learned counsel appearing for the petitioner would submit that the petitioner never suppressed any facts and he categorically mentioned about the criminal case foisted against him in the application itself. The trial Court acquitted the petitioner, since all the other accused persons had entered into compromise with the defacto complainant and as such it was ended in acquittal. He also relied upon the judgment of this Court in *W.P.No.30417 of 2017* dated *07.01.2020*, in the case of *P.Selvaratchagan Vs. The Director General of Police an ors.*, in which this Court relied upon the judgement reported in *(2016) 8 SCC 471* in the case of *Avtar Singh Vs. Union of India & ors.*, in which the Hon'ble Supreme Court of India held that in case, when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in fact and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case. After considering the *Avtar Singh* case this Court, directed the authority



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concerned to reconsider the candidature of the petitioner in that case.

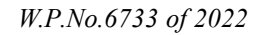
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5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of counter revealed that during police verification it was revealed that the petitioner was involved in Crime No.213 of 2015 for the offence punishable under Section 379 of IPC. The allegations are that the petitioner and others were stolen the copper wire which belongs to Panchayat property. Further, the petitioner was acquitted by the learned Judicial Magistrate, Thirukoilur, based on the compromise arrived between the parties. Therefore, the petitioner is not found eligible for appointment to the post of Gr.II Police Constable.

7. It is relevant to rely upon the judgement passed by the Hon'ble Supreme Court of India reported in **(2016) 8 SCC 471** in the case of **Avtar Singh Vs. Union of India.**, in which the Hon'ble Supreme Court of India held as follows :-

“38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In



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



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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 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



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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.

Thus it is clear that where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

8. In the case on hand, the case in which the petitioner involved is not trivial in nature. The petitioner has involved in the theft case that too theft of public property. Therefore, the Panchayat President lodged the complaint in which the petitioner is arrayed as second accused. It was ended in acquittal only on the ground that the parties are entered into compromise. Therefore, the case was closed and the petitioner was acquitted under Section 320(8) of Cr.P.C. That apart, there was a recovery of stolen goods from the petitioner and the trial Court directed to return the said property to the defacto complainant. Therefore, the above



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judgment is not helpful to the case on hand. This Court finds no infirmity or illegality in the order of rejection of candidature of the petitioner and the writ petition is devoid of merits and liable to be dismissed.

9. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

27.02.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts

To

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G.K.ILANTHIRAIYAN. J.

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