



W.A.No.1964 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.1964 of 2022

G.Chandrasekaran

.. Appellant

Vs

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Department of Home,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old COP Office Campus,
Pantheon Road, Egmore,
Chennai-600 008.
- 3.The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai-600 004.



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4.The Superintendent of Police,
Office of the Superintendent of Police,
Nagapattinam,
Nagapattinam District.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent to set aside the order dated 2.2.2022 passed by the learned Single Judge in W.P.No.1301 of 2022.

For the Appellant : Mr.S.Thendral
for M/s.C.S. Associates

For the Respondents : Mr.S.Prabhakaran
Government Advocate

JUDGMENT

(Delivered by *D.KRISHNAKUMAR,J.*)

Heard Mr.S.Thendral, learned counsel for M/s.C.S.Associates, learned counsel for the appellant; and, Mr.S.Prabhakaran, learned Government Advocate for the respondents.

2. Challenging the order of the learned Single Judge dated 2.2.2022 dismissing the writ petition, the appellant has filed the present writ appeal.



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3. The appellant has filed the writ petition for issuance of a writ of mandamus directing the respondents to appoint the appellant as Grade-II Police Constable.

4. The learned Single Judge, vide impugned order, dismissed the writ petition holding that the selection has taken place in the years 2010 and 2014 and the appellant, under no circumstances, can enforce his right at the distant point of time. The learned Single Judge also observed that even the acquittal by the criminal court was of the year 2018, the appellant has submitted his latest representation only during September, 2021. Thus, the claim of the appellant is barred by time and, therefore, the writ petition cannot be entertained.

5. Assailing the order of the learned Single Judge, learned counsel for the appellant submitted that the learned Single Judge erred in holding that the appellant has filed the writ petition belatedly. When the learned I Additional District and Sessions Judge (PCR), Thanjavur delivered his judgment on 24.4.2018 in S.S.C.Nos.69 and 70 of 2017 (P.C.R.No.12 of 2015 on the file of



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District Munsif-cum-Judicial Magistrate, Vedaranyam) acquitting all the accused, immediately the appellant approached the authorities by way of representation and requested them to appoint him as per the selection process. However, they have not considered the claim of the appellant.

6. Learned counsel for the appellant further submitted that the appellant has not involved in any such criminal activities as alleged by the respondents and, in fact, in P.R.C.No.12 of 2015, the appellant has not been arrayed as accused. Even in the charge sheet also, the appellant's name has not been included, which would clearly prove that the appellant was not connected with the aforesaid criminal case.

7. Learned counsel for the appellant then submitted that the learned Single Judge failed to consider the claim of the appellant that the fourth respondent passed an order dated 30.12.2015, pursuant to the direction of this Court in the earlier writ petition, rejecting the representation only based on surmises and conjectures, without even applying his mind and ascertaining whether the appellant was really involved in the criminal case. According to learned counsel for the



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appellant, such vital aspects have not been considered by the learned Single Judge while dismissing the writ petition. Thus, he prayed for setting aside the order of the learned Single Judge and also sought a direction against the respondents to appoint him as Grade-II Police Constable.

8. Supporting the impugned order of the learned Single Judge, learned Government Advocate for the respondents submitted that at the time of recruitment process, the criminal case was pending and the appellant has been arrayed as accused No.26. The appellant was arrested by the police on 15.10.2005 and sent to judicial custody. Upon considering all the relevant facts of the case, the learned Single Judge rightly dismissed the writ petition holding that the claim of the appellant is hopelessly time barred.

9. We have considered the rival submissions and also perused the materials on record.

10. The second respondent issued a notification in the year 2014 calling for applications from the candidates to fill up the



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vacancies in the Tamil Nadu Special Police Youth Brigade. The appellant applied for the said post and was selected after passing necessary examination. When the respondents have not issued the appointment order, the appellant has made a representation dated 10.10.2015 requesting the respondents to issue the appointment order. As no action was taken on the representation, the appellant has filed W.P.No.36912 of 2015 seeking direction to the respondents to appoint the appellant as Grade-II Police Constable. By the order dated 23.11.2015, this Court permitted the appellant to submit a representation to respondents 4 and 5 within a period of two weeks from the date of receipt of the copy of the order and upon receipt of the representation, respondents 4 and 5 were directed to consider the same on merits and in accordance with law within a period of six weeks thereafter. Pursuant to the direction of this Court, the appellant had submitted his representation. By the order dated 30.12.2015, the fourth respondent rejected the representation of the appellant on the ground that there was a criminal case pending against him in P.R.C.No.12 of 2015 on the file of the Judicial Magistrate, Vedaranyam. After acquittal in the criminal case, the appellant submitted a representation dated 2.9.2021 requesting the



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third respondent to appoint him as Grade-II Police Constable. When the respondent authorities failed to consider the said request of the appellant, he has filed the writ petition.

11. It appears that the cause of action for filing the writ petition by the appellant arose in the years 2010 and 2014 respectively and the appellant has not chosen to workout his right promptly when the cause of action arose in 2010 and 2014. The appellant allowed the matter to languish for several years and approached this Court by filing writ petition in the year 2015 and even thereafter he did not pursue the matter diligently. As rightly held by the learned Single Judge, the appellant cannot enforce his right for the selection that has taken place in the years 2010 and 2014. The appellant has submitted his second representation only in September, 2021. Finding that the claim of the appellant is stale and hopelessly time barred, the learned Single Judge dismissed the writ petition and we do not find any perversity in the said order.

12. It is pertinent to note that as per Rule 14(b) of the Tamil Nadu Special Police Service Rules, a person involved in a criminal



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case at the time of police verification and the case yet to be disposed of and subsequently ended in honourable acquittal or treated as a mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment only by participating in the next recruitment. In view of the said legal position, the appellant is not eligible for appointment in the 2010 recruitment.

13. Since the recruitment process was completed long ago and all the vacancies which were notified under the notifications had been filled, at this distant point of time, we do not find any merit in the claim made by the appellant.

In the result, the writ appeal is dismissed. There shall be no order as to costs.

(D.K.K., J.) (K.B., J.)
19.06.2024

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