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W.P.No.9815 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **VIVEK KUMAR SINGH**

W.P.No.9815 of 2021

P.Ramesh

...Petitioner

-Vs-

1.The Tamil Nadu Uniformed Services Recruitment Board,
Rep by its Chairman,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai 600 008.

2.The Director General of Police,
Head of the Police Force,
Chennai 600 004.

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

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order passed by the second respondent in connection with his proceedings in Rc.No.529572/Rect.1(2)/2020 dated 18.09.2020 and quash the same as illegal and consequently direct the respondents to appoint the petitioner as Gr.II Police Constable with all consequential benefits.



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For Petitioner : Mr.R.Kamesh Kumar

For Respondents : Mr.R.U.Dinesh Rajkumar, AGP

ORDER

This Writ Petition has been filed challenging the proceedings of the second respondent in Rc.No.529572/Rect.1(2)/2020 dated 18.09.2020 and to direct the respondents to appoint the petitioner as Grade II Police Constable with all consequential benefits.

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

3. The case of the petitioner is that the first respondent had published a notification for recruitment to the Post of Grade II Police Constable, Grade II Jail Warden & Fireman for the year 2017. The petitioner also applied for the same and participated in the written examination. The petitioner passed the written examination and also qualified in the physical test conducted by the first respondent. While so, the first respondent published the selection list and the petitioner was provisionally selected for the said post. Pursuant to the same, he was directed to attend medical test on 09.09.2017. Thereafter, the second



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respondent passed an order dated 10.10.2017 cancelling the petitioner's selection stating that a criminal case is pending against him. Challenging the same, the petitioner approached this Court by way of a writ petition in W.P.No.33288 of 2017. This Court had quashed the said order and directed the respondents to reconsider his case for selection. However, the second respondent without considering the earlier order passed an order of rejection stating the same reason. Meanwhile, the criminal case registered against the petitioner was ended in acquittal by the Judicial Magistrate No.II, on 09.12.2020. Aggrieved by the same, the present petition has been filed by the petitioner.

4.The learned counsel for the petitioner submitted that the criminal case for which the petitioner was charged was trivial and he was acquitted from all the charges. Hence, the second respondent was not right in rejecting the candidature of the petitioner. The learned counsel in order to substantiate his submissions, had relied upon the judgment of the Hon'ble Supreme Court in *Avatar Singh vs. Union of India and others* reported in **2016 8 SCC 472**.

5. Per contra, learned Additional Government Pleader appearing for the respondents vehemently opposed even for entertaining this writ



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petition on the ground that the petitioner had suppressed the pending criminal case against him in his application form and hence, none of the orders that were relied upon by the learned counsel for the petitioner will apply to the facts of the present case. He further submitted that the petitioner had knowledge about the pending criminal case and inspite of the same, he had suppressed and hence, it was moral turpitude on the part of the petitioner. Hence, the learned Additional Government Pleader sought for dismissal of the present petition. In support of his contention, he relied on the judgment of this Court in ***W.P.No.2042 of 2023 (R.Sankar Vs. The State of Tamil Nadu and others)*** dated ***30.01.2023*** and the judgment of the Hon'ble Supreme Court in the case of ***Union of India and others Vs. Methu Meda in Civil Appeal NO.6238 of 2021***.

6. In the present case, the petitioner was aware about the pending criminal case and he was undergoing trial and the petitioner had conveniently stated in the application form that there was no criminal case filed or pending against him as on the date of submission of the application form in the year 2017. Admittedly, the petitioner was acquitted from the criminal case in C.C.No.91 of 2016 only on 09.12.2020. Hence, the subsequent acquittal of the petitioner from the



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criminal case, will not come to an aid of the petitioner, since he had suppressed the pendency of a criminal case as on the date when the application was submitted.

7.It will be relevant to take note of Para 38.10 and 38.11 in *Avatar Singh case*, referred supra and for proper appreciation, the same is extracted hereunder:

“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. In 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 suppression or suggestion falsi, knowledge of the fact must be attributable to him”

8.It is clear from the above that while determining suppression or



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false information, the same must pertain to the information that is specifically sought for in the application and the same must be within the knowledge of the applicant. In the present case, both the ingredients are satisfied. There was a specific column in the application wherein the petitioner was asked as to whether any criminal case has been filed against him. The petitioner categorically states that there is no criminal case pending against him. Whereas, there was in fact a criminal case that was pending in C.C.No.91 of 2016. The same was also within the knowledge of the petitioner and hence, the petitioner must be held guilty of suppressing the material fact. In view of the same, this Court does not find any illegality in the impugned order passed by the 2nd respondent and the judgment that was relied upon by the learned counsel for the petitioner, will not come to his aid. The suppression of a material fact at the time of submitting the application, particularly, in a discipline service, involves moral turpitude and it has to be dealt with stringently and Courts cannot show any leniency for such willful suppression of material fact.

9. In view of the suppression of facts by the petitioner, this Court finds no merits in this Writ petition and accordingly, the same is hereby dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
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To

- 1.The Tamil Nadu Uniformed Services Recruitment Board,
Rep by its Chairman,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai 600 008.
- 2.The Director General of Police,
Head of the Police Force,
Chennai 600 004.
- 3.The Superintendent of Police,
Cuddalore District, Cuddalore.

VIVEK KUMAR SINGH. J,

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