



WEB COPY

W.A.No.133



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2024

CORAM:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
and
THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

**W.A.No.1338 of 2021
and C.M.P.Nos.8339 of 2021 & 10318 of 2022**

1.The State of Tamil Nadu
Rep. by its Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
No.8047, P.T.Lee Changalvarayan Naicker Maaligai,
Anna Salai,
Chennai – 600 002.

2.The Superintendent of Police,
District Police Office,
Salem District, Nethimedu,
Salem – 632 002.

...Appellants

VS.

Manikandan

...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order passed by the learned Single Judge dated 03.02.2021 in W.P.No.103 of 2021 on the file of High Court of Judicature, Madras.

For Appellants : Mr.P.Kumaresan, Additional Advocate General
Assisted by Mr.A.Daniel
Government Advocate

For Respondent : Mr.R.Sankarasubbu



J U D G M E N T

(Judgment of the Court was delivered by K.KUMARESH BABU, J.)

WEB COPY

This Intra Court Appeal has been preferred against the order of the learned Single Judge, wherein the learned Single Judge had set aside the order passed by the second appellant herein dated 29.10.2020 and directed the appellants to appoint the respondent as a Grade II Constable.

2.We have heard Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.A.Daniel, learned Government Advocate appearing for the appellants and Mr.R.Sankarasubbu, learned counsel appearing for the respondent.

3.Mr.P.Kumaresan, learned Additional Advocate General appearing for the appellants would submit that the respondent herein had participated in the recruitment process for appointment of Grade II Constable had been involved in a criminal case. Even though he had been acquitted in the criminal case, the respondent has suppressed the material fact of his involvement in a criminal case. He would further submit that the respondent was not honourably acquitted, he had been only given a benefit of doubt. Therefore not only the respondent had not been honourably acquitted and had given a benefit of doubt, the



W.A.No.133

WEB COPY

his application. Only during Police verification, it was found that he had been involved in a criminal case therefore, his appointment was rejected. Originally, the learned Single Judge of this Court in a Writ Petition in W.P.No.7957 of 2013 had directed the appellants to appoint the petitioner in a vacancy for the year 2019 – 2020. However, the said direction was turned down by the Hon'ble Division Bench in an appeal filed by the appellants with a direction to dispose of the claim of the respondent in terms of the judgment of the Division Bench of this Court in ***C.Surendhar vs. The Director General of Police, Chennai and Ors.*** reported in ***2019 (6) CTC 465***. He would submit that pursuant to the said direction, the claim of the respondent was considered and he was held to be not eligible, as his conduct of suppression of material fact of his involvement in a criminal case amounted to a conduct of person who could not be appointed to Police service as has been held by the Hon'ble Apex Court in the case of ***Dharampal vs. State of Rajasthan.***

4.Learned Additional Advocate General had also relied upon a judgment of the Hon'ble Apex Court in ***State of Madhya Pradesh and Others vs. Bhupendra Yadav*** reported in ***2023 SCC OnLine SC 1181***, Division Bench judgments of this Court in ***C.Surendhar's case*** reported in ***2019 (6) CTC 465*** and a judgment of a Coordinate Bench in ***W.A.No.2112 of 2021*** and contend that the discretion had been vested with the Government to consider such cases and



the discretion has been rightly exercised by the Department. Therefore, he would seek interference of this Court.

WEB COPY

5. Countering his arguments, Mr.R.Sankarasubbu, learned counsel appearing for the respondent would submit that the learned Single Judge in the earlier round of litigation had specifically held that the criminal case in which the respondent was involved cannot be put against him and also had given a specific finding that there has been no suppression of any material fact by the respondent. This finding of the learned Single Judge had not been revisited by the Division Bench, but the Hon'ble Division Bench in Intra Court Appeal preferred by the respondent had only directed the appellants to consider the claim of the respondent in terms of the judgment reported in **2019 (6) CTC 465**. Hence under the impugned order, the appellants could not again revisit a finding of fact given by the learned Single Judge as affirmed by the Division Bench. Therefore, the reason assigned by the appellants in rejecting the claim of the respondent on the ground that he had suppressed the material fact is without any basis and contrary to the findings given by the learned Single Judge in W.P.No.7957 of 2013. In such view of the matter, he would submit that no interference is required to be made.



W.A.No.133

WEB COPY

6.We have considered the submission made by the respective counsel appearing on either side and we have also perused the orders passed in the earlier round of litigation.

7.The learned Single Judge while dealing with the claim of the respondent in a Writ Petition No.7957 of 2013 had given a categorical finding that there has been no suppression of material fact. The said finding had not been disturbed by the Division Bench of this Court. What was directed by the Division Bench was to consider the claim of the respondent on the basis of the judgment reported in **2019 (6) CTC 465**. When this Court had given a categorical finding that there has been no suppression of material fact on the side of the respondent, particularly, the second appellant could not have given a finding that the respondent had suppressed the material fact based upon which the claim of the respondent had been rejected. The reasoning given by the second appellant to come to such a conclusion, in our view, is contrary to the finding of fact given by this Court in the earlier round of litigation.

8.In such view of the matter, we are of the view that the order impugned before us, do not suffer from any infirmity. However, the matter is remitted back to the second appellant to consider the claim of the respondent, however, in any future vacancy that would arise as held by the Coordinate Bench in

W.A.No.2112 of 2021 dated 19.04.2023.

<https://www.mhc.tn.gov.in/judis>



W.A.No.133

9. In fine, the Writ Appeal is disposed on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.K.,J.) (K.B.,J.)
14.02.2024

Index: yes/no
Speaking order: yes/no
Neutral Citation: yes/no
pam



W.A.No.133

To

WEB COPY

1.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
No.8047, P.T.Lee Changalvarayan Naicker Maaligai,
Anna Salai,
Chennai – 600 002.

2.The Superintendent of Police,
District Police Office,
Salem District, Nethimedu,
Salem – 632 002.



WEB COPY



W.A.No.133

R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

Pam

W.A.No.1338 of 2021

14.02.2024