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W.A.No. 2160 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

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**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.No. 2160 of 2021
and CMP.No. 4572 of 2024**

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No. 807, P.T.Lee Chegalvaraya Naiker Maaligai,
Anna Salai, Chennai-600002.

2. The Director General of Police,
O/o. The Director General of Police,
No. 1, Dr.Radhakrishnan Salai,
Mylapore, Chennai-600004.

3. The Superintendent of Police,
Office of the Superintendent of Police,
Vellore District, Vellore.

..Appellants

Vs

K.Balachandran

..Respondent

Prayer : Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 04.12.2020 made in W.P.No. 8135 of 2020.

For Appellants : Mr.P.Kumaresan, AAG



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Asst. by Mr.C.Daniel, GA

For Respondent : Mr. Arun Anbumani
for Mr.P.Rajkumar

JUDGEMENT

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the order passed by the writ court in W.P.No. 8135 of 2020 dated 04.12.2020, the present writ appeal has been filed.

2. Brief facts:

The respondent has filed a writ petition in W.P.No. 8135 of 2020 challenging the rejection order dated 24.03.2020 issued by the appellants herein on the ground that the respondent has not disclosed his involvement in the criminal case in Crime No. 5 of 2019 in the application from and he was acquitted by the Criminal Court on the basis of benefit of doubt and not on merits. This Court by order dated 04.12.2020 set aside the rejection order passed by the department and directed the department to appoint the respondent to which he is eligible and pass appropriate orders. Challenging the said order this Court, the present writ appeal is filed.

3. The learned Additional Advocate General appearing for the



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appellants has submitted that Rule 14(b) of the Tamil Nadu Police Subordinate Service Rules denotes that “A person who is acquitted or discharged on benefit of doubt in a criminal case will be considered as disqualified for selection to the police service and the same cannot be termed as illegal or unjustified. In the present case on hand, the respondent herein was involved in a criminal case and acquitted on the ground of 'benefit of doubt', therefore as per Rule 14(b) his name was not considered for selection and the same was cancelled by the authority concerned.

4. The learned Additional Advocate General appearing for the appellants, in support of his contentions, has relied upon the following decisions;

- i. *Avtar Singh VS. Union of India & others reported in 2016 (8) SCC 471*
- ii. *Satish Chandra Yadav Vs. Union of India & others, reported in 2022(6) LLN 13 (SC) : 2022 SCC Online SC 1300.*



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5. A Hon'ble Division Bench of this Court in the case of ***Director General of Police, Tamil Nadu Police Department, Mylapore Chennai & Others Vs. K.Indhu Kumar (W.A (MD)Nos. 938 of 2020 & etc., batch, dated 05.06.2023, reported in 2023 (3) CWC 200,*** in which one of us (DKKJ) is member, following the aforesaid decisions of the Hon'ble Supreme Court, has passed detailed order observing as follows;

“18. Therefore, from the judgments of the Hon'ble Supreme Court, it is clear that once the candidate is having knowledge about his involvement in a criminal case (not being of trivial in nature) had suppressed the same at the time of filing of an application, he is not entitled to seek any appointment. But in cases where the information was not furnished in the application form relating to an offence (not being trivial in nature), the employer in his discretion is entitled to consider his candidature by considering his character and past antecedents.

(D). SUMMARY OF PREPOSITION OF LAW:

19. In the light of the above said deliberations, the preposition of law could be summarized as follows:

(a). In case of honourable acquittal, discharge, case closed



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as mistake of fact, quashing of F.I.R./Charge Sheet before the date of police verification, the same should be considered in favour of the candidate in the current selection itself.

(b).Where the candidate has been acquitted on the ground of benefit of doubt or hostility of witnesses (before the date of police verification), that would not confer any right upon the candidate to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.

(c).Where the criminal case has been quashed (before police verification) on the basis of a compromise and the offence is of trivial in nature, the same can be considered in favour of the candidate in the current selection itself. However, if the offence involved is not of a trivial in nature, the same cannot be considered for appointment.

(d).Where a candidate having knowledge about his involvement in a criminal case had suppressed the same in his application and the said offence is not trivial in nature, he is not entitled to seek any appointment. On the other hand, in cases of trivial offences, without knowledge about his involvement or after having knowledge had suppressed his involvement, the employer in his discretion is entitled to consider the candidature by considering his character and past antecedents.

(e).Where the candidate is involved in petty/trivial cases like family dispute or dispute with neighbors or shouting of slogans or traffic offence where fine was imposed, the same can be considered to be offence of trivial/petty in nature. However, the offence against women, children or



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under NDPS Act should never be considered to be an offence of trivial in nature.

(f).Where the candidate is involved in criminal offences under Juvenile Justice Act, he/she is to be considered in the light of the Division Bench Judgment of this Court dated 01.03.2023 in Rev.Apln.No.17 of 2023 in W.A.No.2759 of 2018 (The Superintendent of Police, Villupuram District Vs. S.Rajeshkumar)

(g). Pending the recruitment process, if a candidate is discharged from the criminal case or acquitted in the criminal case, he/she shall be eligible to be considered for the next recruitment process as per Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules.”

6. The respondent herein comes under paragraph 19 (b) of the above judgment, wherein it is observed that *“Where the candidate has been acquitted on the ground of benefit of doubt or hostility of witnesses (before the date of police verification), that would not confer any right upon the candidate to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trival in nature.”*



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7. In view of the above decision of the Hon'ble Division Bench of this Court, the Court cannot interfere with the said decision taken by the employer since the respondent was acquitted from a criminal case on the ground of benefit of doubt.

8. Now coming back to the facts of this case, a perusal of the records reveal that the respondent had applied for the post of Grade -II Police Constable conducted by the Tamil Nadu Uniformed Services Recruitment Board. In the application form, the respondent had declared his involvement in the criminal case with crime number and the jurisdictional police station and the status of the pending case. The respondent herein submitted his application on 06.04.2019 and a criminal case was lodged by the Police in Crime No. 5/ 2019 on 05.01.2019. Therefore, it is clear that there is no suppression of fact by the respondent. Hence, the contention of the appellant that the respondent was not entitled to be appointed in the police department as he had suppressed his involvement in the criminal case cannot be accepted.



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9. Though the writ Court has gone into the entirety of the case of the respondent and concluded that the petitioner is eligible for consideration for appointment and directed the appellant herein/employer to grant appointment on the basis of his selection for the year 2019, in view paragraph 19(g) of the above decision, the respondent who acquitted in the criminal case pending recruitment process, he shall be eligible to be considered only for the next recruitment process as per Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules. To that extent We are inclined to interfere with the order of the writ Court.

10. Considering the facts and circumstances of the case and in light of observations made in para 19 (b) & 19(g) of the aforesaid decision of the Hon'ble Division of this Court (*The Director General of Police, Tamil Nadu Police Department, Mylapore Chennai & Others Vs. K.Indhu Kumar (W.A (MD)Nos. 938 of 2020 & etc., batch, dated 05.06.2023, reported in 2023 (3) CWC 200)*), We are of the view that the respondent is eligible for consideration to the post of Grade II Police Constable only for the subsequent recruitment process.



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11. Accordingly, Superintendent of Police, Vellore District/3rd appellant is directed to consider the candidature of the respondent to the post of Grade-II Police Constable in the available vacancies of the subsequent recruitment process, and pass appropriate orders granting appointment to the respondent, if he is otherwise eligible, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

12. With above observation and discussions, the writ appeal stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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

23.04.2024

Index: Yes / No

Internet: Yes

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1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No. 807, P.T.Lee Chegalvaraya Naiker Maaligai,
Anna Salai, Chennai-600002.

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2.The Director General of Police,
O/o. The Director General of Police,
No. 1, Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600004.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Vellore District,
Vellore.

**W.A.No. 2160 of 2021
and CMP.No 13630 of 2021**

23.04.2024