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WP.No.17828 of 2023

In the High Court of Judicature at Madras

Dated : 25.9.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.17828 of 2023
& WMP.No.16942 of 2023

S.Naveenraj

...Petitioner

Vs

1.The Chairman, Tamil Nadu
Uniformed Service Recruitment
Board, No.71, Adhithanar Road,
Pudupet, Komaleewaranpet,
Egmore, Chennai-2.

2.The Superintendent of Police,
Dharmapuri District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in C.No.A3/006111/2023 dated 08.6.2023 on the file of the 2nd respondent, quash the same as illegal, in compliant and without jurisdiction and further direct the 2nd respondent to give appointment to the petitioner in the post of Grade II Police constable for the selection year 2022.

For Petitioner	:	Mr.K.Muruganantham
For R1	:	Mrs.Sowmi Dattan, Standing Counsel
For R2	:	Mr.P.Balathandayutham, SGP



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ORDER

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This writ petition has been filed by the petitioner challenging the proceedings of the second respondent dated 08.6.2023 refusing to consider the appointment of the petitioner to the post of Grade II Police Constable for the year 2022 and for a consequential direction to the second respondent to give appointment to the petitioner in the said post.

2. Heard the learned counsel for the petitioner, the learned Standing Counsel appearing for the first respondent and the learned Special Government Pleader appearing for the second respondent.

3. The case of the petitioner is as follows :

A Notification was issued in the year 2022 calling for applications to the post of Grade II Police Constable. The petitioner applied for the same. However, the candidature of the petitioner was rejected by the second respondent by the impugned order on the ground that there were two previous criminal antecedents against the petitioner in Crime Nos.187 of 2015 and 18 of 2017 both on the file of Kadathur Police Station, Dharmapuri District. Even though the petitioner was acquitted from those cases, the second respondent, by applying Rule 14 of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules,



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1955 (for short, the Rules), came to the conclusion that the appointment of the petitioner was not feasible for consideration. Aggrieved by that, the petitioner is before this Court.

4. The second respondent filed a counter affidavit for himself and on behalf of the first respondent wherein they took a stand that the petitioner cannot claim any premium for his acquittal from the two criminal cases since the acquittal was not an honourable acquittal and that the petitioner was acquitted on the basis of benefit of doubt. It has been further stated that the petitioner applied for a Disciplined Force, that therefore, the antecedents of the petitioner gain a lot of significance, that accordingly, the two criminal cases were taken into consideration and Rule 14(b) of the Rules was applied and that the petitioner was found to be not fit for being considered for appointment to the post of Grade II Police Constable. Ultimately, the respondents sought for dismissal of the writ petition.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order passed by the second respondent.



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6. The criminal antecedents of a person, who applies for any post in the Disciplined Force, have a lot of significance. The Apex Court in the case of **Avtar Singh Vs. Union of India [reported in 2016 (8) SCC 471]** considered the entire issue and summarized the law in paragraph 38 of the judgment. This judgment was subsequently followed by this Court on various occasions and this Court held that the rejection of candidature of a person, who had previous criminal antecedents, cannot be done in a mechanical fashion, that the Authority is expected to go through the judgment, by which, the candidate was acquitted by the Criminal Court and that the legal principle enunciated by the Apex Court must be applied on the factual matrix of each case. Similarly, even the rule position will have to be applied on the factual matrix of the case.

7. Useful reference can be made to the order passed by a learned Single Judge of this Court in the case of **L.K.Starnesh Vs. Superintendent of Police, Dharmapuri District [W.P.No.17530 of 2019 dated 02.6.2020]**, which was subsequently confirmed by a Division Bench of this Court on appeal by the Disciplined Force in **W.A. No.2112 of 2021 dated 19.4.2023**. While disposing of the said writ appeal, the Division Bench of this Court also took into consideration the subsequent judgment of the Apex Court in the case of **Satish**



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Chandra Yadav Vs. Union of India [reported in 2022 (6) SLR 168].

8. Going into the facts of the case in hand, it is seen that there were two criminal cases pending against the petitioner. The first case was registered in Crime No.187 of 2015 and in this case, the petitioner was arrayed as A2. The charges were framed for the offences under Sections 147, 294(b), 323, 324 and 506(i) of the Indian Penal Code (IPC). The prosecution examined only three witnesses in this case apart from the Investigation Officer. All the three witnesses did not support the case of the prosecution. Therefore, the learned Judicial Magistrate, Pappireddipatti, by judgment dated 22.11.2016 in C.C.No. 77 of 2016, acquitted the petitioner and others from all the charges.

9. The other case, which was registered against the petitioner in Crime No.18 of 2017 on the file of the same Police Station, was a case involving a protest that was made, in which, the petitioner was arrayed as A17. In this case, there was a road roko, which resulted in the registration of the first information report and ultimately, a final report was filed for the offences under Sections 147, 341, 188 and 353 of the IPC. The trial was conducted by the same Magistrate in C.C.No. 112 of 2018. On considering the facts and circumstances of the case



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and on appreciation of evidence, the Trial Court came to the conclusion that the prosecution was not able to prove the case beyond reasonable doubts and that the charges were not established against the accused persons. Accordingly, all the accused persons were acquitted from all the charges.

10. It is quite clear from the above two judgments of the Court below that there was absolutely no evidence against the petitioner and therefore, it has to be held that the petitioner was honourably acquitted in both the cases. In such an event, the case of the petitioner should be considered as per Explanation (2) to Rule 13(b) of the Rules and it must be construed that the petitioner was not involved in the said two criminal cases at all.

11. The second respondent, in the impugned order, has mechanically extracted the relevant rule and the various judgments and straight away came to the conclusion that the appointment of the petitioner was not feasible. This Court must also keep in mind the fact that the petitioner, at the time of alleged occurrence in Crime No. 187 of 2015, was aged 23 years. The other case only involved a protest and it does not have a real significance. The second respondent has been given the absolute power to take a final call in the matter as to



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whether the petitioner is suitable for appointment to the Disciplined Force notwithstanding the acquittal of the petitioner by the Criminal Court. This discretion has to be exercised on the basis of the facts and circumstances of each case.

12. In the case in hand, the second respondent has not appreciated the facts of the case and the legal principles and has mechanically applied the Rules and the judgments. The Rules and the judgments cannot independently stand bereft of facts and it is the duty of the second respondent to go through the facts and apply the relevant Rules and the judgments. Had it been done, the second respondent would have clearly ascertained that in the first case, there was no evidence against the petitioner and in the second case, it involved only a protest/road roko.

13. In the light of the above discussions, this Court is of the view that this case falls under the exceptional clause where in spite of the involvement of the petitioner in the criminal cases and the subsequent acquittal by the Criminal Court, the petitioner is still entitled to be considered for appointment.



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14. Accordingly, the impugned proceedings of the second respondent in C.No.A3/006111/2023 dated 08.6.2023 is hereby quashed. The respondents are directed to consider the claim of the petitioner for appointment to the post of Grade II Police Constable in any existing vacancy or future vacancy in case the petitioner's selection falls within the meritorious zone and if he is otherwise qualified.

15. The writ petition is allowed in the above terms. No costs. Consequently, the connected WMP is closed.

25.9.2024

To

1.The Chairman, Tamil Nadu
Uniformed Service Recruitment
Board, No.71, Adhithanar Road,
Pudupet, Komaleewaranpet,
Egmore, Chennai-2.

2.The Superintendent of Police,
Dharmapuri District.

RS



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