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W.P.No.19025 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19025 of 2024

A.Ajith Kumar

... Petitioner

Vs

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

2. The Member-Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 018.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent dated 11.01.2022 made in C. No. A4/777/2020 and to quash the same and consequently direct the respondents to appoint the petitioner for the post of Grade-II Police Constable under the Recruitment of Grade-II Police Constable (TSP) for the year 2020 forthwith.



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For Petitioner : Mr. C.Prabakaran

For Respondents : Mr. V.Veluchamy,
Additional Government Pleader (for R1)

Mr. P.Kumaresan,
Additional Advocate General
assisted by M/s. D.Sowmi Dattan,
Standing Counsel (for R2)

ORDER

With consent of both sides, this Writ Petition has been taken up for disposal at the admission stage itself.

2. This Writ Petition has been filed challenging the order dated 11.01.2022, passed by the first respondent, whereby the petitioner's candidature for the post of Grade-II Police Constable was rejected.

3. The petitioner, being qualified with a degree and eligible to apply for the post of Grade-II Police Constable, accordingly applied after the second respondent issued a notification for recruitment to the post for the year 2020. The petitioner was shortlisted for the written examination,



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physical endurance test, certificate verification, and interview. After participating in the certificate verification and interview, the petitioner's candidature was rejected on 11.01.2022 on the ground that the petitioner had been involved in a criminal case registered in Crime No. 1365 of 2020 for offences under Sections 294(b), 323, and 324 of IPC, which was allegedly suppressed by the petitioner.

4. The learned counsel for the petitioner submitted that due to inadvertence, it was not mentioned in the application, and apart from that, the petitioner was acquitted in the criminal case in S.T.C. No. 1018 of 2021 on the file of the Judicial Magistrate No. II, Panruti, by judgment dated 29.08.2022.

5. It is relevant to extract the judgment of the Hon'ble Division Bench of the Madurai Bench of this Court, rendered in W.A.(MD) No.53 of 2023, dated 21.06.2023, which dealt with the very same issue in a detailed manner, as follows:-

9. This Court in a similar circumstances, in a batch



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of cases filed before the Madurai Bench of Madras High Court in W.A.(MD) No.938 of 2029 etc., batch dated 05.06.2023, in which one of us is a party [D.Krishnakumar, J.], has elaborately discussed on various factors to be considered in respect of police recruitment and observed as follows:

“12.Suppression of involvement in a criminal case:

The suppression of involvement in a criminal case will clearly dis-entitle a candidate for the post for which he has applied. The Hon'ble Supreme Court in a Judgement reported in (2013) 7 SCC 685 (Commissioner of Police, New Delhi and another Vs. Mehar Singh) in Paragraph No.34 has held as follows:

“34.The respondents are trying to draw mileage from the fact that in their application and/or attestation form they have disclosed their involvement in a criminal case. We do not see how this fact improves their case. Disclosure of these facts in the application/attestation form is an essential



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requirement. An aspirant is expected to state these facts honestly. Honesty and integrity are inbuilt requirements of the police force. The respondents should not, therefore, expect to score any brownie points because of this disclosure. Besides, this has no relevance to the point in issue. It bears repetition to state that while deciding whether a person against whom a criminal case was registered and who was later acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of doubt because the witnesses turned hostile or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future. This decision, in our opinion, can only be taken by the Screening Committee created for that purpose by the Delhi Police. If the Screening Committee's decision is not mala fide or actuated by extraneous considerations, then, it



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cannot be questioned.

13.The Hon'ble Supreme Court in a judgement reported in (2016) 8 SCC 171(Avtar Singh Vs. Union of India and others) in Paragraph No.38.4 has held as follows:

“38.4 In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filing of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted.”

14.The Hon'ble Supreme Court in a judgement reported in (2012) 8 SCC Page 748 (Jainendra Singh Vs. State of Uttar Pradesh through Principal Secretary, Home and others), Paragraph No.29.5, 29.6 and 29.7 has held as follows:

“29.5. The purpose of calling for information regarding involvement in any criminal case or detention or



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conviction is for the purpose of verification of the character /antecedents at the time of recruitment and suppression of such material information will have a clear bearing on the character and antecedents of the candidate in relation to his continuity in service.

29.6. The person who suppressed the material information and / or gives a false information cannot claim any right for appointment or continuity in service.

29.7. The standard expected of a person intended to serve in uniformed service is quite distinct from other services and, therefore, any deliberate statement or omission regarding a vital information can be seriously viewed and the ultimate decision of the appointing authority cannot be faulted.”

15.The Hon'ble Supreme Court in a judgment reported in (2021) 10 SCC Page 136 (Rajasthan Rajya Vidyut Prasaran Nigam Limited and Another Vs. Anil Kanwariya) in Paragraph No.14 has held as follows:



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“14. The issue/question may be considered from another angle, from the employer?s point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment, i.e., while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be



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forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right.”

16.The Hon'ble Supreme Court in a judgment reported in 2022 SCC Online SC 1300 (Satish Chandra Yadav Vs. Union of India and others) in Paragraph No.90(c)(d) have held as follows:

90....

(c).The suppression of material information and making a false statement in the verification Form relating to arrest, prosecution, conviction etc., has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his



fitness or suitability to the post, he can be terminated from service.

(d)The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided?.

17.In view of the Judgments of the Hon'ble Supreme Court, it is clear that where a candidate had knowledge about his involvement in the criminal case, but he had suppressed the same either at the time of application or at the time of police verification, he is not entitled to get an appointment. However, the Hon'ble Supreme Court in a judgment reported in (2016) 8 SCC Page 471 (Avtar Singh Vs. Union of India and others) in Paragraph No.38.4.1 has held that if the criminal case in which the candidate is involved is of trivial in nature, the employer may, in his discretion, can ignore such suppression of fact or false



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information by condoning the lapse. In Paragraph 38.8, the Hon'ble Supreme Court has held that if the pendency of the criminal case was not informed to the candidate at the time of filing the form, still it may have adverse impact and the appointing authority would have to take decision after considering the seriousness of the crime. In Paragraph 38.11, the Hon'ble Supreme Court has held that before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.

18. Therefore, from the judgements 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 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



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(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. (emphasis supplied)

(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



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imposed, the same can be considered to be offence of trivial/petty in nature. However, the offence against women, children or 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 above judgement is squarely applicable to the case on hand



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and as such, this Court finds no infirmity or illegality in the impugned order passed by the first respondent. Accordingly, this Writ Petition is dismissed.

No costs.

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Index:Yes/No

Neutral Citation/Yes/No

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G.K.ILANTHIRAIYAN, J.

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