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WP.No.21723 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.21723 of 2023 and  
WMP.Nos.23755 & 23770 of 2023

G.Gobinath

... Petitioner

Vs.

- 1.The Chairman,  
Tamilnadu Uniform Service and  
Recruitment Board,  
Old Commissioner of Police Office Campus,  
Pantheon Road, Egmore,  
Chennai 600 008
- 2.The Director General of Police,  
O/o. The Director General of Police,  
Old Commissioner of Police Office Campus,  
Chennai 600 004
- 3.The Superintendent of Police,  
Thanjavur District,  
Thanjavur

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3<sup>rd</sup> Respondent in Na.Ka.No.B3 / 800 / 2023 dated 30.06.2023 against the petitioner and



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quash the same as illegal and arbitrary and consequently direct the Respondents to consider selection of the petitioner and send him for training along with the other selected candidates for the year 2022.

For Petitioner : Mr.R.K.Ramaiah

For Respondents

For R1 & 2 : Mr.S.Arumugam,  
Government Advocate

For R3 : Mrs.D.Sowmi Dattan,  
Standing Counsel

### **ORDER**

This writ petition has been filed challenging the order passed by the third respondent dated 30.06.2023 thereby rejected the petitioner's candidature for selection to the post of Grade-II Police Constable.

2. The petitioner is qualified with B.C.A. degree. The first respondent published notification inviting applications for the post of Grade-II Police Constable-AR, Grade-II Police Constable - TSP, Jail



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Warden and Fireman for the year 2022. The petitioner had applied for the said post and after written examination, the petitioner was shortlisted for physical measurement test, endurance test, physical efficiency test. However, the petitioner was not selected to the post of Grade-II Police Constable. By an order dated 30.06.2023, the petitioner's candidature itself was rejected on the ground that the petitioner suppressed the fact that he already involved in a criminal case, registered in crime No.1519 of 2020 for the offence under Sections 294(b), 324 and 506(ii) of IPC on the file of the Inspector of Police, Taluk Police Station, Kumbakonam.

3. The learned counsel for the petitioner would submit that the petitioner's name is Gopinath, whereas FIR has been registered as against one, Gopi. The petitioner is no way connected with the said offence and he has been falsely implicated as an accused. That apart, the petitioner does not have any long knowledge about the said FIR and as such, the petitioner failed to state anything about the registration of FIR in the application. Therefore, the petitioner did not suppress the said fact wantonly.



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4. Heard, the learned counsel appearing on either side.

5. On perusal of FIR, revealed that the second accused's name is mentioned as Gopi, S/o Ganasan, Kalaivani Nagar, Kumbakonam. His father name is also Ganesan and he belongs to the same address. Further, it is only FIR. On an information, the case has been registered. While giving information, the petitioner's nick name might have been informed to the Police and the case has been registered as Gopi, S/o Ganesan. It does not mean that the petitioner is not an accused. Further, the petitioner also obtained anticipatory bail in CrI.MP.No.4486/2020 dated 03.11.2020 on the file of the Principal Sessions Judge, Thanjavur. In the said order also, the petitioner mentioned his name as Gobi, S/o Ganesan. Further, the petitioner, after having been obtained anticipatory bail, wantonly suppressed the fact that he did not involve in any criminal case. 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 dealing with the very same issue in a detailed manner hereunder:

*9. This Court in a similar circumstances, in a batch of cases filed before the Madurai Bench of Madras High*



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*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 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*



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*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 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*



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*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 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 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*



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*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*



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*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 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*



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*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 (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*



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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 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*



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*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 judgment is squarely applicable to the case on hand and as such, this Court finds no infirmity or illegality in the impugned order dated 30.06.2023 of the third respondent. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index: Yes/No  
Speaking/Non-speaking order  
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**G.K.ILANTHIRAIYAN, J.**

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To

- 1.The Chairman,  
Tamilnadu Uniform Service and  
Recruitment Board,  
Old Commissioner of Police Office Campus,  
Pantheon Road, Egmore,  
Chennai 600 008
- 2.The Director General of Police,  
O/o. The Director General of Police,  
Old Commissioner of Police Office Campus,  
Chennai 600 004
- 3.The Superintendent of Police,  
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