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W.A.No.3518 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.A.No.3518 of 2019
and
CMP.No.22566 of 2019

The Director General of Police,
Tamil Nadu,
Chennai-4.

... Appellant

Vs.

M.Sasi Kumar

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 13.04.2006 passed in W.P.No.29182 of 2005.

For Appellant : Mr.P.Kumaresan
Additional Advocate General
assisted by Mr.J.Daniel, Govt. Advocate
For Respondent : Not ready in Notice



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J U D G M E N T

[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

The Writ Appal has been instituted by the Director General of Police against the order dated 13.04.2006 passed in WP.No.29182 of 2005. The respondent preferred the writ petition challenging the order of rejection rejecting the selection of the writ petitioner mainly on the ground that he was erroneously held as not suitable for recruitment to the post of Grade-II Police Constable in Tamil Nadu Police Service.

2. The Writ petitioner participated in the process of selection for appointment to the post of Grade-II Police Constable pursuant to the recruitment notification issued by the appellant. The writ petitioner cleared the written examination and found eligible to participate in the physical verification test and endurance test. During the verification, the Selection Committee found that the writ petitioner was facing criminal cases. Two criminal cases were registered against the writ petitioner in Crime No.108/2001 for offences under Sections 147, 148, 323, 324 and 506(ii) of IPC and Crime No.250/2001 for the same offences. It was brought before the



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Writ Court that the respondent was acquitted by the competent Criminal Court and therefore, there was no impediment for selecting the writ petitioner for appointment to the post of Grade-II Police Constable in Tamil Nadu Police Service. The Writ Court considered the grounds and issued a direction to the appellant to consider the case of the writ petitioner for selection to the post of Grade-II Police Constable and send him for training, if he otherwise qualified.

3. The learned Additional Advocate General Mr.P.Kumaresan assisted by Mr.J.Daniel, learned Government Advocate appearing on behalf of the appellant would contend that the writ petitioner was found not eligible for selection to the post of Grade-II Police Constable. Mere acquittal in a criminal case is not a ground to seek selection. The case of the writ petitioner/respondent was considered by the Selection Committee and they found that the writ petitioner/respondent was not eligible and therefore, there is no infirmity and the Writ Order is to be set aside.

4. Selection to the Uniformed Services ought to be made scrupulously by following the procedures. Eligibility and suitability ought to be assessed



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by the Selection Committee and regarding the suitability, the findings of the Selection Authorities are final until then it is established such a decision is tainted with mala fides or in violation of Recruitment Rules in force. Ordinarily, the High Court in exercise of powers of judicial review cannot go into the merits of the Selection specifically in the matter of suitability. Verification of antecedent character and suitability are the prerogative of the Selection Committee, which is to be made in accordance with the Recruitment Rules in force.

5. In the present case, the respondent admittedly faced two criminal cases. Acquittal in a criminal case on benefit of doubt is not a ground to seek selection or appointment. Beyond the order of acquittal, suitability is to be considered by the competent Selection Committee. In the present case, the Selection Committee found that the respondent was not suitable for appointment to the post of Grade-II Police Constable. Therefore, issuing a direction to consider the case of the respondent for selection would not arise. Even if the case of the respondent is directed to be reconsidered, the Authorities may not be in a position to consider, since the respondent was found not suitable by the Selection Committee and that being the factum, we



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are inclined to consider the Writ Appeal. Beyond the factual aspects, the writ petitioner participated in the process of selection at the age of 23 and now he is aged about 43 years and for all these reasons, the writ order dated 13.04.2006 passed in W.P.No.29182 of 2005 is set aside and consequently, the Writ Appeal stands allowed. No costs. Consequently, connected CMP is also closed.

[S.M.S., J.] [C.K., J.]
03.06.2024

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Index : Yes

Speaking order : Yes

Neutral Citation : Yes



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