



W.P.(MD) No.1609 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.1609 of 2021
and
W.M.P.(MD) No.1377 of 2021
and
W.M.P.(MD) No.8759 of 2021

G.Mukesh Kumar

... Petitioner

Vs.

1.The Director General of Police,
P.B.No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

2.The Commandant,
The Tamilnadu Special Police Regimental Centre,
Avadi, Chennai-600 054.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records and the impugned order passed by the 2nd respondent in Rc.No.A4/5059/2015/PR 4/2013 u/r 3(b), dated 04.03.2019 and quash the same and consequently direct the respondents to permit the petitioner to continue the service of the Police Constable Grade II within the period to be stipulated by this Court.



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For Petitioner : Mr.H.Velavadhas
For Respondents : Mr.N.Ga.Natraj
Government Advocate

ORDER

The petitioner herein participated in the recruitment process in response to a notification dated 26.12.2012 issued by the Tamil Nadu Uniformed Services Recruitment Board for the post of Grade-II Police Constable. He was successful in the selection process and he was provisionally selected and he was issued with appointment order in R.C.No.A1/410/2013, dated 23.01.2013. Thereafter, a crime was registered against the petitioner on 28.01.2013 in Crime No.28/2013 on the file of the Bazaar Police Station, Ramanathapuram district. Thereafter, the petitioner was sent for training on 17.02.2013 and at the time of joining for training, the petitioner gave an affidavit dated 17.02.2013 stating that he was not involved in any criminal case. However, subsequently on verification, it is noticed that the petitioner was involved in Crime No.28/2013. On coming to know about the same, the petitioner was removed from service on 10.03.2013 and the



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same was interfered with by this Court in W.P.(MD) No.6918 of 2013 and the said writ petition was allowed by this Court by order dated 25.04.2013 on the ground of violation of principles of natural justice. Thereafter, once again the petitioner was removed from service by passing an order in P.R.No.4/2013, dated 06.12.2013. Aggrieved by the said order, the petitioner once again approached this Court by filing W.P.(MD) No.13985 of 2015 and this Court by an order dated 27.11.2018, remanded the matter back to Respondent No.2 to reconsider the case of the petitioner, in the light of various judgments of the Hon'ble Apex Court including the case of *Avtar Singh v. Union of India and others*⁽ⁱ⁾. Pursuant to the said order dated 27.11.2018, the case of the petitioner was reconsidered and the request of the petitioner for reinstatement into service was rejected through the impugned proceedings dated 04.03.2019. Aggrieved by the same, the petitioner approached this Court by filing the present writ petition.

2. After the order passed by this Court in W.P.(MD) No.13985 of 2015, dated 27.11.2018, much water has flown and a learned Division Bench

(i) (2016) 8 SCC 471



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of this Court in W.A.(MD) No.938 of 2020 and batch, dated 05.06.2023 considered very same issue by duly taking note of various decisions of the Hon'ble Apex Court, including the decision in the case of ***Union of India and others v. Methu Meda⁽ⁱⁱ⁾***. The petitioner, who was involved in the criminal case, as noted above, under Sections 147, 148, 294(b), 323, 324 and 506(ii) IPC, was acquitted by the concerned Court on 21.04.2014 on the ground of benefit of doubt.

3. In terms of Explanation 1 of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978 (hereinafter referred to as “the Rules, 1978”), a person who was acquitted on the ground of benefit of doubt could be treated as a person involved in a criminal case thereby disentitling him for appointment to the disciplinary force. The said Rule 14(b) of the Rules, 1978 was also considered by the learned Division Bench in W.A.(MD) No.938 of 2020 and batch and the learned Division Bench by judgment dated 05.06.2013, having discussed the entire case law, summarised the proposition of law in paragraph 19 of the said decision. The relevant

(ii) (2022) 1 SCC 1



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portion dealing with the ground of benefit of doubt is dealt with under sub-
paras (b) and (e) of para 19 of the said decision, which reads as under:

“19.(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 no 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.

(e) Where the candidate is involved in petty/trivial cases like family dispute or dispute with neighbours 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.”

4. In the light of the latest legal position as noted above, this Court has thoroughly gone through the impugned order passed by Respondent No. 2. Though the order appears to be very elaborate and detail in nature, on examination, it is found that Respondent No.2 was mainly guided by the



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Explanation 1 to Rule 14(b) of the Rules, 1978 and also considered the offences alleged to have been committed by the petitioner as serious in nature, without discussing the exact offence or overt act that was attributed to the petitioner in the said crime. Further, the background facts that led to commission of the said offence are also the matters that ought to have been looked into by Respondent No.2. The same is totally lacking. Only by treating the offence alleged to have been committed by the petitioner as serious in nature, Respondent No.2 issued the impugned order. It is not the case of the respondents that the offence in which the petitioner was involved is a case of moral turpitude or serious in nature.

5. In the light of the law laid down by this Court while dealing with the case falling under Rule 14(b) of the Rules, 1978 as noted above, mere acquittal of the candidate on the ground of benefit of doubt or witness turning hostile would not automatically debar the candidate from being appointed or continued in the disciplinary forces. But the same is subject to consideration of each case on its own facts on application of mind by the competent authority. In the instant case, the same is totally lacking in the impugned



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order. Therefore, this Court is inclined to remit the matter back to Respondent No.2.

6. Accordingly, the impugned order is set aside and the matter is remitted back to Respondent No.2 for considering the case of the petitioner afresh, in the light of the law laid down by this Court as noted above and to pass appropriate orders afresh by duly examining the suitability of the petitioner for being appointed to the post of Grade-II Police Constable. Respondent No.2 is directed to pass orders accordingly, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this order.

7. This Writ Petition is allowed to the extent indicated above. No costs. Consequently W.M.P.(MD) No.1377 of 2021 is closed.

8. In view of the disposal of the main writ petition, no orders are required to be passed passed in W.M.P.(MD) No.8759 of 2021 and the same is also closed.

12.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
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MUMMINENI SUDHEER KUMAR, J.

ABR

To

- 1.The Director General of Police,
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Mylapore, Chennai-600 004.
- 2.The Commandant,
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