



W.A(MD)No.889 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.A(MD)No.889 of 2024

M.Yuvaraja

... Appellant / Petitioner

-VS-

1.The Director General of Police,
Tamil Nadu Police Department,
Mylapore,
Chennai-600 004.

2.Tamil Nadu Uniformed Services
Recruitment Board,
Rep. by its Member Secretary,
Old Commissioner of Police Office
Campus,
Pantheon Road,
Egmore, Chennai-600 008.

3.The Director,
Fire and Rescue Department,
No.17, Rukmani Lakshmipathi Road,
Chennai-600 008.

4.The Superintendent of Police,
Theni District,
Theni.

... Respondents / Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the
order dated 05.12.2023 made in W.P.(MD)No.21571 of 2023.



WEB COPY



W.A(MD)No.889 of 2024

For Appellant : Mr.R.R.Kannan

For Respondents : Mr.P.Veera Kathiravan,
Additional Advocate General,
Assisted by
Mr.P.T.Thiraviyam,
Government Advocate

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The issue involved in this writ appeal is squarely covered by the judgment of the Division Bench made in Rev.Appln.No.17 of 2023 in W.A.No.2759 of 2018 dated 01.03.2023.

2. On facts it is disclosed that the writ appellant was born on 24.10.1998 and he was charged for committing offences under Sections 147, 148, 294 (b), 323 and 324 read with 506 (II) IPC on 02.04.2016. The incident took place on 18.01.2016 when the appellant was aged about 17 years and 2 months. No doubt, the appellant was acquitted since the witnesses turned hostile. The appellant sought for employment in the uniformed services. The Director, Department of Fire and Rescue Services, rejected his claim for appointment on the ground that the rules particularly Special Rule 5(b)(3) which reads as follows:

“(3) No person shall be eligible for appointment to the Service by direct recruitment unless he satisfies the appointing authority that



W.A(MD)No.889 of 2024

he has not involved in any criminal case before police verification.

Explanation (1). -- A person who is acquitted or discharged on the benefit of doubt or due to the fact that the complainant turned hostile shall be treated as a person involved in a criminal case.

Explanation (2). -- A person involved in a criminal case at the time of police verification and the case is yet to be disposed of and subsequently ended in honourable acquittal or treated as mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment only by participating in the next recruitment”.

disqualifies him from seeking appointment in the uniformed services.

3. The fact that the incident occurred when the appellant was juvenile is not in dispute. Section 24 of the Juvenile Justice (Care and Protection of Children) Act, 2015, protect juveniles who are in conflict with law. It clearly mandates that a juvenile who is found to be in conflict with law shall not incur any disqualification. The said provision commences with a nonobstante clause and it is reads as follows:

“Removal of disqualification on the findings of an offence.

(1) Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law:

Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the



W.A(MD)No.889 of 2024

Children's Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.

(2) The Board shall make an order directing the Police, or by the Children's Court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed: Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children's Court."

4. This legal position was considered by the Division Bench of this Court, to which one of us (Hon'ble Justice.Mr.R.Subramanian) was a party, in Rev.Appln.No.17 of 2023 and it was held that a juvenile who is found to be in conflict with law will not incur a disqualification.

5. Mr.P.Veera Kathiravan, learned Additional Advocate General points out that this point was raised before the writ Court. It is a legal issue and the appellant cannot be non suited on the ground that he has not raised the issue, since we will have to make every endeavour to give effect to the intention of the parliament which had enacted the Juvenile Justice (Care and Protection of Children) Act, 2015, with noble intentions.

6. Hence, the writ appeal is allowed. The order of the learned single Judge and the order impugned in this writ appeal dated 07.07.2023 is set



W.A(MD)No.889 of 2024

aside. There will be a direction to the respondents to offer employment to the appellant notwithstanding the alleged disqualification. It is made clear that the appellant would be entitled to financial and service benefits only from the date of his initial appointment. Eight weeks time is granted to the respondents to offer employment to the appellant. There shall be no order as to costs.

[R.S.M., J.]

[L.V.G., J.]

03.10.2024

NCC :Yes/No

Index :Yes/No

Internet: Yes

Sml

To

- 1.The Director General of Police,
Tamil Nadu Police Department,
Mylapore,
Chennai-600 004.
- 2.Tamil Nadu Uniformed Services
Recruitment Board,
Rep. by its Member Secretary,
Old Commissioner of Police Office
Campus,
Pantheon Road,
Egmore, Chennai-600 008.
- 3.The Director,
Fire and Rescue Department,
No.17, Rukmani Lakshmipathi Road,
Chennai-600 008.
- 4.The Superintendent of Police,
Theni District,
Theni.



WEB COPY



W.A(MD)No.889 of 2024
R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Sml

W.A(MD)No.889 of 2024

03.10.2024