



WP.(MD).No.12991 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.12991 of 2023

and

W.M.P.(MD)Nos.11002 and 11004 of 2023

M.Maheswari

... Petitioner

Vs.

1.The Director General of Police,
O/o the Director General of Police,
Tamil Nadu
Chennai- 600 004.

2.The Superintendent of Police,
O/o the Superintendent of Police,
Madurai,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proceedings in ந.க.எண்.பி1/E-3844177/2022 dated 15.05.2023 and quash the same as illegal and consequentially to direct the respondents to consider the name of the petitioner for the appointment to the post of Police Constable Grade II.

For Petitioner

: Mr.V.Sujatha

For Respondents

: Mr.P.Veera Kathiravan,



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Additional Advocate General
Assisted by
Mr.S.Shaji Bino,
Special Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent in his proceedings in ந.க.எண்.பி1/E-3844177/2022 dated 15.05.2023 and to direct the respondents to consider the name of the petitioner for the appointment to the post of Police Constable Grade II.

2.The petitioner is a destitute widow and her husband died in a road accident during the year 2019. Both her mother-in-law and her father also died thereafter. The Tamil Nadu Uniformed Services Recruitment Board published notification in notification No.2 of 2022 dated 30.06.2022, inviting applications for recruitment to the post of Police Constable Grade II, Fireman and Jail Warden. Pursuant to the same, the petitioner had applied to the post of Grade II Police Constable through online application on 11.07.2022. The petitioner had successfully cleared the written examination followed by physical endurance test, physical eligibility test and certificate verification. Thereafter, she was



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provisionally selected and she had secured 38 marks out of 70 marks coming within the Zone of Consideration for the appointment to the post of Police Constable Grade II (AR). While so, the second respondent with a impugned proceeding dated 15.05.2023 rejected her candidature solely on the ground that her character and previous antecedent is not satisfactory as a criminal case was registered as against her in Crime No.20 of 2019 under Sections 294(b), 498A, 323 and 506(i) of IPC on the file of the All Woman Police Station, Samayanallur and the same ended in acquittal in C.C.No.5 of 2021 by the order of the learned Judicial Magistrate, Vadipatti dated 23.09.2022. Challenging the same, this Writ Petition came to be filed.

3.The learned counsel for the petitioner submitted that a criminal case was registered against the petitioner and her family members by her sister-in-law that is her husband's brother's wife under Section 498A arraying the petitioner as A4 and her husband as A3. The said case ended in acquittal on merits stating that the petitioner was not even in the place of occurrence namely Tarapatti Village on any occasion as she stayed in Uchampatti village. The said case was registered against the petitioner and her family



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members by her in law only on personal vengeance and enmity and the same is surely a family dispute. Relying upon the judgment of the Hon'ble Apex Court in the case of ***Preeti Gupta v. State of Jharkhand*** reported in (2010) 7 SCC 667, the learned counsel for the petitioner submitted that it is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the Courts in our Country including the Supreme Court and High Courts are flooded with matrimonial cases. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. However, to find out the truth in matrimonial matters and family disputes is a Herculean task in majority of such complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. Contending that the learned Trial Court after extreme caution had carefully dealt with the various witnesses and evidences deposed and only on the basis of pragmatic reality had come to a conclusion that the petitioner herein is innocent and was duly acquitted of all the charges framed as against her in C.C.No. 5 of 2021 by order dated 23.09.2022. That apart he insisted that the instant case is not a case of suppression of criminal case and the petitioner has duly disclosed the details of the criminal case, in which she was acquitted at the



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time of making application. Further, the petitioner is not a habitual offender and her antecedent and character cannot be judged merely because of the fact that she had been arraigned as fourth accused in a matrimonial dispute. Without assessing her character and antecedent independently, without application of mind, the second respondent simply extracting the provisions has come to a conclusion that the petitioner's character and antecedent is not satisfactory and on that basis, pressed for interfering with the impugned order and allow the Writ Petition.

4.Relying upon Rule 13(b) of the Tamil Nadu Police Service Subordinate Service Rules, the learned Additional Advocate General submitted that the petitioner has been acquitted only on the basis of benefit of doubt and taking into account, the criminal antecedent of the petitioner, the impugned order has rightly passed and pressed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned Additional Advocate General appearing for the respondents and carefully perused the entire materials available on record.



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6.Rule 13(b) and 13(e) of the Tamil Nadu State Police

Subordinate Service Rules is extracted as follows:-

“No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority that,

(b)that his character and antecedents are such as to qualify him for such service;

(e)that he has not involved in any criminal case before police verification.

Explanation (1): a person who is acquitted or discharged on benefit of doubt or due to the fact that the complainant had 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 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.”

7.A Director General of Police has issued a Communication on 22.02.2021 vide office memo in C.No.1268/20889/Rect.II (1)/2015 dated 17.12.2015 in which paragraph Nos. 6 to 11 are extracted as follows:-

“6. All the appointing authorities are requested to go



through the relevant rules, court orders (Full Judgement available in High Court website), details of criminal case, role of the candidate in that case, present stage of case, judgement delivered etc, in a careful manner and issue necessary endorsement regarding rejection of their candidature under proper acknowledgement.

7.The following points should also be considered before issuance of the endorsement.

a. Every case has to be judged on its merits.

b. "Honourable acquittal" restores the right of individual. Hence, honourable acquittal before the date of police verification means that the candidate must be considered favourably.

c. A case referred on "Mistake of Fact" has to be favourably viewed for the candidate.

d. Discharge on technical grounds (hostile witnesses) does not entitle the candidate for automatic clearance and the appointing authorities may still reject the candidature on ground of unsuitability to do the nature of the duty.

e. Suppression of involvement in a case still under investigation or trial or not ending in honourable acquittal is a ground sufficient for rejection of the candidate.

f. Petty cases should not lead to over penalization.

8.It is also informed that the following types of candidates were considered for appointment to the post of SI of Police/Gr.II PCs on earlier occasions.

i) The candidates acquitted honourably prior to Police Verification.

ii).The personal released under probation of offenders act were treated as not involved in a criminal case, in view of Section 12 of the PO Act 1958 which stipulates that convicts



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released on Probation of Conduct Act or after admonition by the Court shall not suffer any disqualification attached to the conviction.

iii).The persons released under Juvenile Act were treated as not involved in a criminal case. Section 19 of the Juvenile Justice (Care and Protection of Children) Act 2000 which stipulates that a Juvenile has committed an offence and has been dealt with under provision of this act shall not suffer disqualification, if any attached to conviction of an offence under such law.

iv).If any political affiliation on the candidate comes to notice during the Police verification, it will not be held against him, unless he is having other bad antecedents. However, he shall be instructed not to involved in such activities as per conduct rules.

v).The candidates whose names are deleted from the charge sheet.

vi).The cases treated as Mistake of fact prior to police verification.

vii).Some of the candidates involved in petty cases were considered.

viii).Accident cases were considered if the case was pending at the time of police verification and if there was no suppression of fact.

ix).The case in which the I.O registered the case against a minor candidates under IPC and not under Juvenile Justice Act, his case were considered for appointment.

x). The cases where fine was imposed up to Rs.2000/- were considered.

9.The date of Police Verification is the date on which the verifying Officer (ie. Not below the rank of SI of Police) is



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counter singing the verification Roll)

10.The persons who are acquitted under benefit of doubt (or) hostility of complainant will be treated as involved in criminal case and he will not be considered for appointment as per Rule 14(b) of TNSPSS Rules (or) Rule 13 of TNPSS Rules.

11.Regarding “ Honourable Acquittal”, the Hon'ble Supreme Court of India in SLP(Civil Appeal No.4842/2013 in their orders, dated 02.07.2013 (arising out of SLP (Civil) No. 38886/2012) filed by the Commissioner of Police, New Delhi and another (Appellants) -versus-Mehar Singh have made observations in Para 21 of the said order and the same may be referred)”.

8.In view of the said instructions of the Director General of Police dated 22.02.2021, it is necessary that each case has to be judged on its own merits. The instant case, in which the petitioner is involved is a typical case of family dispute which ended in acquittal.

9.A careful reading of the judgment of the learned Judicial Magistrate, Vadipatti in C.C.No.5 of 2021, it could be understood that the petitioner's husband who was implicated as third accused in the said case died during the pendency of the trial. That apart the learned Trial Court on the basis of the evidence of the various



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witnesses has dug out the truth that the petitioner who has been implicated as the fourth accused in the case was not at all involved in the alleged family dispute and she was residing in a different destination as rightly contended by the learned counsel for the petitioner. Hence, no doubt the family dispute in which the petitioner has been implicated is just a petty case, which is trivial in nature. That apart, there is no suppression and the petitioner has truthfully declared in her character verification and application form as to the previous criminal case, which ended in acquittal. The Hon'ble Apex Court in the case of **Avatar Singh V. Union of India and others** reported in **2016 (8) SCC 471** has held that in case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer in facts and circumstances of the case in its discretion may appoint the candidate. However, in the instant case, the petitioner/candidate has made declaration truthfully of a concluded criminal case which ended in acquittal and the same is certainly of trivial nature.

10. In view of the same, this Court is of the considered view that the second respondent ought to have considered and judged



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the case on its merits and considering the fact that the petitioner is a destitute widow ought to have duly issued her with appointment order. In view of the same, the impugned order dated 15.05.2023 issued by the second respondent is hereby quashed and consequently, the respondents are directed to consider the name of the petitioner for appointment to the post of Police Constable Grade II within a period of 12 weeks from the date of receipt of copy of this order.

11. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

To

- 1.The Director General of Police,
O/o the Director General of Police,
Tamil Nadu
Chennai- 600 004.
- 2.The Superintendent of Police,
O/o the Superintendent of Police,
Madurai,
Madurai District.

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