



W.P.(MD)No.13185 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.07.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.13185 of 2024

and

W.M.P.(MD)No.11672 of 2024

S.Azarudeen

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Home Department, Secretariat,
Chennai-09.
- 2.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai-8.
- 3.The Member Secretary,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai-8.
- 4.The Director General of Police,
O/o.the Director General of Police,
Tamil Nadu, Chennai-600 004.



W.P.(MD)No.13185 of 2024

5.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to quash the impugned order passed by the fifth respondent vide his proceedings in C.No.A2(1)/22995/2019, D.O.No.508/2024, dated 16.05.2024 and further direct the respondents to appoint the petitioner as Grade II Police Constable within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
For Respondents : Mr.Veerakathiravan
Additional Advocate General-III
assisted by Mr.J.Ashok
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the fifth respondent vide his proceedings in C.No.A2(1)/22995/2019, D.O.No. 508/2024, dated 16.05.2024 and further direct the respondents to appoint the petitioner as Grade II Police Constable within the period that may be stipulated by this Court.



W.P.(MD)No.13185 of 2024

2.Heard Mr.H.Mohammed Imran, learned counsel for the petitioner and Mr.Veerakathiravan, learned Additional Advocate General assisted by Mr.J.Ashok, learned Additional Government Pleader for the respondents.

3.The petitioner is one of the candidates, who had been selected for the post of Grade-II Police Constable (Armed Reserve, Tamil Nadu Special Force) for the recruitment year 2019. However, he was not given with the appointment order on the ground that the petitioner has suppressed his involvement in a criminal case and the respondent passed a rejection order dated 27.09.2021. Challenging the same, the petitioner has filed a writ petition in W.P.(MD)No.22319 of 2021, which came to be dismissed on 24.03.2022. Aggrieved over the said order, the petitioner has filed an appeal in W.A. (MD)No.432 of 2022. The Division Bench of this Court vide order dated 05.06.2023, had disposed of the said appeal on the following lines:

“ (a)The candidate by name S.Azarudeen was involved in a criminal case in Crime No.986 of 2017 for the offences under Sections 294(b), 324 and 506(ii) I.P.C on 24.11.2017 and he was arrested on the same day. He was acquitted by the Judicial Magistrate No.I, Virudhunagar on 30.07.2018 on the ground that the complainant had turned hostile. The notification for selection was issued on 08.03.2019. The candidate has suppressed his involvement while submitting his application on 16.03.2019. However, he had disclosed the same during



W.P.(MD)No.13185 of 2024

the police verification on 10.02.2020. On the ground of suppression, his candidature was rejected by the respondents. Challenging the same, the candidate had filed W.P(MD).No.22319 of 2021.

(b).The writ Court was pleased to dismiss the writ petition refusing to interfere in the decision of the selection committee on the ground that the candidate had suppressed his involvement in the criminal case. This order is under challenge in the present writ appeal.

(c).According to the learned counsel appearing for the appellant, the offences alleged as against the appellant are trivial in nature and they do not attribute any kind of serious crime element or any kind of moral turpitude so as to disqualify him for any public employment. He had further contended that, non-disclosure of involvement in a criminal case at a very young age which is of trivial in nature can be condoned and ignoring such suppression, the suitability of the candidate may be considered.

(d).In the present case, the candidate has been acquitted on 30.07.2018 on the ground that the complainant had turned hostile. Therefore, the acquittal is prior to the police verification which was conducted on 10.02.2020. Whenever a candidate is acquitted on the ground of hostility of witnesses 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.

(e). In the present case, we are of the opinion that the offences are trivial in nature and therefore, it is for the employer to take a call upon the suitability of the candidate.

(f).In view of the above said facts, this writ appeal is allowed and



W.P.(MD)No.13185 of 2024

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the order impugned in the writ petition is set aside and the matter is remitted back to the file of the respondents for fresh consideration in the light of the proposition of law summarized in Paragraph No.19 of this judgement. No costs. Consequently, connected miscellaneous petition is closed.”

4.In the earlier writ petition also the petitioner has raised the same grounds raised in the present writ petition. Only after considering the said grounds, the Division Bench of this Court had observed that the offences made against the petitioner is trivial in nature and hence, the respondents has to consider the suitability of the petitioner. However, the fifth respondent had passed the order again rejecting the candidature of the petitioner observing as under:

“7.In compliance to the above Hon'ble High Court order, the records of Tr.S.Azarudeen, Virudhunagar District is scrutinized and it is found that a criminal case was registered against him in Virudhunagar West PS., Crime No.986/2017, under Section 294(b), 324, 506(ii) IPC and in the above case he was arrested on 25.11.2017. The candidate had previous knowledge about the criminal case but wilfully suppressed the same in the Application form. Explanation-I of the rule 14(b) of TNPSS stated that “ as 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”. Tr.S.Azarudeen, Virudhunagar District was acquitted



W.P.(MD)No.13185 of 2024

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from the above criminal case only on the grounds of witness and the complainant turned hostile. As per explanation-I of rule 14(b) of TNSPSS the candidate will be treated as a person involved in a criminal case.”

5.The above order only shows that the fifth respondent reiterated the very same grounds, which were already agitated before the Division Bench of this Court by the petitioner herein in W.A.(MD)No.432 of 2022.

6.At the time, when the petitioner had applied to the post, the criminal case initiated against him had already ended in acquittal in CrI.R.C.No. 1327 of 2010 dated 28.02.2011. Hence, the petitioner did not feel that it should be considered as his involvement in a criminal case. Since the petitioner understood the reference in the application about the term that 'information of a criminal case', is only relating to the pending criminal case, he did not choose to mention the case, which had already ended in acquittal. However he has revealed the same, at the time of certificate verification.

7.While dealing with the similar circumstances, in W.P.No.4990 of 2021, this Court by an order dated 22.11.2023, following the judgment rendered by the Hon'ble Supreme Court in ***Avtar Singh vs Union Of India & Ors (2016) 8 SCC 471*** and the judgment rendered by the Division Bench of



W.P.(MD)No.13185 of 2024

this Court in W.A.(MD)Nos.938 and 939 of 2020 dated 05.06.2023, has observed as under:

“15. In the case in hand also, the case pending against the petitioner falls under trivial offences. Even in trivial offences, if the pendency of such case is within the knowledge of the applicant and he ought to have brought it to the notice of the authority concerned. However, the lack of understanding on the part of the applicant in construing the meaning of column No.16 that he is bound to reveal information only if a criminal case is pending, cannot be taken so seriously that the petitioner had wantonly suppressed the material fact. Had there been such an intention in the mind of the petitioner, he would not have mentioned it even during his earlier application filed for the recruitment of the year 2007-08. So the omission on the part of the petitioner to make a mention about his acquittal in the criminal case in Column No.16 of the application is due to sheer misunderstanding and not an intentional suppression.”

8.Since the petitioner herein is also similarly placed as that of the petitioner in the above writ petition in W.P.No.4990 of 2021 dated 22.11.2023, this petitioner is also entitled for the same relief.

9.In the result, this Writ Petition is allowed and the order passed by the fifth respondent in C.No.A2(1)/22995/2019 D.No.508/2024, dated 16.05.2024 is set aside and the respondents are directed to appoint the



W.P.(MD)No.13185 of 2024

petitioner as Grade II Police Constable in the Tamil Nadu Special Police Service recruitment for the year 2019 with notional seniority without back wages within a period of twelve weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

08.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

- 1.The Principal Secretary,
Home Department, Secretariat,
Chennai-09.
- 2.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai-8.
- 3.The Member Secretary,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai-8.
- 4.The Director General of Police,
O/o.the Director General of Police,
Tamil Nadu, Chennai-600 004.
- 5.The Superintendent of Police,



W.P.(MD)No.13185 of 2024

Virudhunagar District,
Virudhunagar.



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W.P.(MD)No.13185 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.13185 of 2024

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