



W.A(MD).No.1038 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 11.11.2024

Delivered on : 12.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.A.(MD)No.1038 of 2019
and
C.M.P(MD)No.9484 of 2019**

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Chennai – 600 008.
 2. The Director General of Police,
Office of the Director General of Police,
Mylapore,
Chennai – 600 004.
 3. The Superintendent of Police,
Office of the Superintendent of Police,
Virudhunagar,
Virudhunagar District.
- Appellants/respondents



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Vs.

P.Manimaran

....Respondent/Writ Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent against the order passed in W.P.(MD)No.19612 of 2018, dated 11.09.2018.

For Appellants : Mr.Veera Kathiravan,
Additional Advocate General
assisted by Mr.M.Sidharthan,
Additional Government Pleader

For Respondents : Ms.A.S.Rajeswari

JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

The appellants have preferred this intra-court appeal against the order passed by the learned Single Judge dated 11.09.2018 in W.P. (MD) No.19612 of 2018.

2.The facts leading to the filing of above writ appeal are as follows:

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a) One Thiru.P.Manimaran, the respondent herein was provisionally selected for appointment to the post of Grade-II constable for the year 2018.

b) During police verification, it was found that the said candidate was involved in a criminal case registered as Crime No.34 of 2016 before A.Mukkulam Police Station and a case was registered on 26.04.2016 for the offences under section 294(B) 323, 506(ii) of IPC.

c) His name was however deleted when the charge sheet was filed. This was because during investigation, it was found out that he did not involve himself in the commission of said offence. The charge sheet was filed on 11.05.2016.

d) However, while making an application on 01.02.2017, the respondent/writ petitioner, Manimaran had suppressed the fact that the criminal case was earlier registered against him and that his name was deleted from the charge sheet.



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e)The Superintendent of Police, Virudhunagar District, by Proceedings dated 03.10.2017 quoting Rule 14(b) of the Special Rules of Tamil Nadu Police Subordinate Service rejected the candidature on the ground that he had suppressed the fact of involvement in the criminal case.

3.The said proceedings was challenged before the Madurai Bench of Madras High Court in W.P.(MD)No.19612 of 2018. The said petition was allowed on 11.09.2018 against which the present Writ Appeal has been filed on the following grounds:-

1. The rejection of petitioners candidature for suppression of material facts is legally sustainable and tenable, but the learned Single Judge has not taken into consideration the above facts.

2. In both OMR application submitted on 01.02.2017 and the checklist submitted on 09.09.2017, the petitioner has not disclosed about the registration of FIR against him on 26.04.2016 and the fact that his name was deleted from the charge sheet which was filed on 11.05.2016.



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3. To a specific query as to whether he has got himself involved in a criminal case at any point of time, the respondent had stated that he was not involved in any criminal case.

4. The Hon'ble Judge relied upon the judgement rendered in 2016 (8) SCC 471 in which the Hon'ble Apex Court categorically held that the candidate is bound to provide the information about his conviction/acquittal/arrest/pendency of the criminal case and that there should not be any suppression or any false mention of the required information.

5. The Hon'ble Apex Court further held that in case where the employee has made a declaration truthfully of the concluded criminal case, the employer still has the right to consider the antecedent and they cannot be compelled to appoint the candidate.

6. That the Hon'ble Judge ought to have seen that to the specific question as to whether the candidate was involved in any criminal case, the petitioner had specifically stated “no”. Non-disclosure by the



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petitioner in his application amounts to suppression. This was not considered by the learned Single Judge.

7. The learned Additional Advocate General relied on the decisions reported in **(2023) 7 SCC 536 (Sathish Chandra Yadav v. Union of India)** and **(2023 SCC OnLine SC 1181 (State of Madhya Pradesh v. Bhupendra Yadav))**. He also submitted that the latest decision reported in **(2024) 5 SCC 264 (Ravindra Kumar v. State of Uttar Pradesh)** cannot be taken to have overruled the earlier precedents.

8. The learned counsel for the respondent argued that the first appellant issued notification vide Advertisement No.111 calling for application for filling up the post of Constable Grade II and other posts for the year 2017. The respondent submitted application on 23.01.2017 enclosing all the necessary documents. After receipt of such application, the first respondent sent a call letter directing the respondent to appear for written examination on 21.05.2017. Accordingly, he attended the said examination and secured 50 marks out of 80 in the written examination. Subsequently, he was called for physical fitness test on



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27.07.2017 and 18.07.2017 respectively. He secured 15 out of 15 marks.

That he secured 65 marks in the written examination as well as in the physical fitness examination. After such test the first respondent called for certificate verification and he had produced the relevant certificates.

9. After such verification, the third respondent office issued certificate called verification form which was to be filled up and submitted by the respondent, while submitting such form in column, 15, 16 and 18, the respondent mentioned that no cases are pending against him. He was under the fond hope that he will get the appointment.

10. A case in Crime No.34 of 2016 was registered on 26.04.2016, A.Mukkulam Police Station Virudhunagar District for the offences under Section 294(b) 323 and 506(i) of IPC against some persons, he was arrayed as 4th accused. After investigation, his name was deleted and the charge sheet was filed by the police on 11.05.2016.

11. It is true that suppression of one's involvement in a criminal case is a serious matter and cannot be viewed lightly. Though there is a



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line of cases supporting the stand of the learned Additional Advocate General, we are inclined to adopt the approach laid down in the latest decision reported in **(2024) 5 SCC 264 (Ravindra Kumar v. State of Uttar Pradesh)**. It is worth mentioning that in **Ravindra Kumar**, all the earlier precedents have been considered. Finally, it was laid down that broad-brushing every non-disclosure as a disqualification will be unjust and the same will tantamount to being completely oblivious to the ground realities. It was further clarified that each case will depend on the facts and circumstances that prevail thereon and the court will have to take a holistic view. Applying the aforesaid approach, we are of the view that the petitioner had answered in the negative because he had already been deleted from the charge sheet and that he was afraid that he may be deprived of employment if he answered in the affirmative. What clinches the issue in favour of the writ petitioner is that he has been selected as Police Constable Grade II in the subsequent selection and he is presently a member of the Uniformed Force. The petitioner hails from a Backward Class community and a rural background. The case on hand is not one of acquittal on technical grounds. It is a case where the petitioner's name was deleted from the array of accused when charge sheet was filed.



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Thus, even according to the Investigation Officer, the petitioner was falsely implicated. In the facts and circumstances of the case, we are of the view that the failure to disclose his implication in the criminal case need not be viewed as suppression warranting disqualification. The learned Single Judge has already held in favour of the respondent. In exercise of jurisdiction under Clause 15 of Letters Patent, we do not propose to interfere with the impugned in this writ appeal.

12. Respectfully applying the ratio laid down in ***Ravindra Kumar v. State of UP (2024) 5 SCC 264***, we sustain the order passed by the learned Single Judge allowing the writ petition. The writ petitioner's seniority will be accordingly revised and refixed.

13. Accordingly, this Writ Appeal stands dismissed. No order as to costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) & (R.P., J.)
12.11.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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To

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