



W.A(MD)No.1297 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A(MD)No.1297 of 2016
and
CMP(MD)No.8916 of 2016

1. The Chairman,
Tamilnadu Seerudai Paniyalar Thervu Kuzumam,
P.T.Lee, Sengalvaraya Naicker Trust,
2nd Floor, No.807, Anna Salai, Chennai- 02.

2. The State of Tamil Nadu,
Rep. by the Secretary,
Home Department,
Secrateriat, Chennai-600 009.

3. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai.

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

... Appellants

VS.

G.Veeravijayan

... Respondent

Appeal filed under Clause 15 of Letters Patent, against the order
dated 28.08.2012 made in W.P(MD)No.1518 of 2009.



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For Appellant : Mr.Veera Kathiravan
Additional Advocate General assisted by
Mr.A.K.Manikam, Special Government Pleader
For Respondent : Mr.L.Shaji Chellan

J U D G M E N T

G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

The State has preferred this intra-court appeal being aggrieved by the order passed by the learned Single Judge allowing the writ petition filed by the respondent.

2. Brief facts of the case leading to the appeal is that the 1st appellant/Chairman, Tamil Nadu Uniformed Services Recruitment Board invited applications from the eligible candidates for the post of Grade-II Police Constable as per the proceedings in A1/4747/2007. Pursuant to the said proceedings, the respondent applied on 25.03.2008 and participated in the selection process and was successful in the written examination as well as physical test. He was subjected to medical examination on 12.01.2009 at Government Hospital, Sivagangai, and he was found medically fit also. While he was expecting orders to join the service and undergo training, he did not receive any intimation from the



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1st appellant and then found that his name has been withheld to accommodate somebody else. Hence, he filed writ petition seeking Mandamus directing the 1st appellant board to include his name in the list of trainees for the post of Grade-II Police Constable.

2.1. The writ petition was contested by the appellants on the ground that the writ petitioner who was provisionally selected was not called for training since during police verification, it was brought to the notice that the writ petitioner was prosecuted in a criminal case for offences under Sections 294(b), 323 and 506(ii) IPC before the Principal District Munsif cum Judicial Magistrate Court, Karaikudi, in C.C.No.3 of 2007. Though he was acquitted extending benefit of doubt since the prime prosecution witness turned hostile, he has incurred ineligibility to join uniformed services in view of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978 and also in view of the decision of the Hon'ble Full Bench of the Madras High Court in **Manikandan vs. Chairman, Tamil Nadu Uniformed Services Recruitment Board** reported in **2008 (2) CTC 97**.



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2.2. The learned Single Judge after considering the rival submissions primarily held that the writ petitioner has not suppressed the fact of the criminal case he faced, he has disclosed about the fact of criminal case registered against him and also the acquittal. The aforesaid judgment of the Full Bench distinguishes the facts particularly, the acquittal of an accused extending benefit of doubt and a honourable acquittal. After perusing the judgment passed in C.C.No.3 of 2007 acquitting the writ petitioner, the learned Single Judge opined that the prosecution was able to examine two witnesses, one the defacto complainant and another the investigating officer; the defacto complainant turned hostile and therefore, the case has ended in acquittal; when no witness except the defacto complainant was examined to substantiate the charges, the benefit of considering the candidature of the writ petitioner cannot be taken away while the criminal court judgment has every trapping of honourable acquittal.

2.3. Being aggrieved, the State has preferred appeal stating that while the recruitment rule 14(b) would clearly disqualify a person seeking employment in a uniformed service having faced criminal trial even if he has been acquitted and the said legal position has been



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clarified by the Full Bench of this Court, the reasoning given by the learned Single Judge distinguishing the facts in the writ petition is unwarranted.

2.4. Further, learned Special Government Pleader would also submit that the matter relates to recruitment of Grade-II Police Constable for the year 2008 and after a lapse of several years, the respondent herein who has now crossed the age of 38 years is even otherwise not suitable for the post.

3. Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978 reads as follows:

"14(b) No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority.

(i) that he is of sound health, active habits and free from any bodily defect or infirmity unfitting him for such service and

(ii) that the character and antecedents are such as to qualify him for such service.

(iii) that such a person does not have more than one wife living and

(iv) 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 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 has yet to be disposed of and subsequently ended in honorable acquittal or treated as a 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."

4. This Court after giving anxious consideration to the rival submissions and Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978, along with the dictum laid down by the Full Bench of this Court which has been consistently followed in subsequent judgments, holds that when there is a specific explanation which says acquittal gained in view of the witness turning hostile has to be treated as a person involving in a criminal case and the same has been upheld by the Full Bench of this Court, there cannot be any other alternate view except to set aside the order of the learned Single Judge.



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5. Accordingly, the impugned order of the learned Single Judge dated 28.08.2012 made in W.P(MD)No.1518 of 2009 is set aside and the Writ Appeal is allowed. No costs. Connected miscellaneous petition is closed.

(G.J., J.) (C.K., J.)
06.02.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

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G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

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JUDGMENT MADE IN
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