



W.P(MD)No.20851 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20851 of 2018
WMP(MD) Nos.18626 & 18627 of 2018

Priya

... Petitioner

Vs

1.The Superintendent of Police,
Karur District, Karur.

2.The Additional Deputy Superintendent Police / Principal,
IUCAW Thanjavur (Incharge) Police Training School,
Idayapatti,
Madurai 625 710.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court, to issue a Writ of Certiorarified Mandamus, directing the 1st respondent to call for the records relating to the impugned order passed by the 1st respondent made in Na.Ka.No.A2/6344/2017 dated 09.03.2018 and quash the same as illegal and arbitrary and in violation of Article 14 and 21 of the Constitution of India and consequently direct the 1st respondent to reinstate the petitioner in service with continuity of service and with



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full back wages and other attendant benefits including the benefit under the maternity benefit Act 1961.

For Petitioner : Mr.Haroon Rasheed.D.S.,
For Respondents : Mr.K.Balasubramaniam
Special Government Pleader

ORDER

Challenging the order of termination from service passed by the Superintendent of Police, Karur, the petitioner has approached this Court in the year 2018.

2.The petitioner was selected for the post of Grade-II Women Constable vide proceedings in Na.Ka.No.A2/6344/2017, dated 16.10.2017 and she was admitted for training in IUCAW Thanjavur Police Training School, Idayapatti, Madurai from 01.11.2017. The petitioner has availed leave from 07.02.2018 to 26.02.2018 on the ground of her illness due to Chicken box. After this leave period, this petitioner was directed to get fitness certificate from the doctor and to join duty. The doctor, who has examined the



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petitioner found that this petitioner was pregnant and she was having 24 weeks matured fetus inside her womb and issued a certificate to that effect. The petitioner, by suppressing that she was married, has applied for the post of Grade-II Women Constable. Since the petitioner has given a false information even at the time of applying for the post, the respondent has issued a charge memo and conducted an enquiry and also imposed a punishment of termination from service. As against the order of termination, the petitioner has filed this writ petition in the year 2018.

3.The learned counsel appearing for the petitioner submits that her marriage with one Chinnadurai was an inter caste marriage. Apprehending some problem in her village, she could not disclose the same at the time of applying for the post. The learned counsel further submits that these circumstances ought to have been considered by the Authority, while imposing maximum punishment of termination from service. The learned counsel has relied on the decision of the Honourable Supreme Court in *Avtar Singh Vs.*



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Union of India and others reported in *2016 8 SCC 471*, to
substantiate his contentions.

4.The learned Additional Government Pleader appearing for the respondents submits that this petitioner is having an appeal remedy and without exhausting the available statutory remedy, she has preferred this writ petition. He further submits that the police force is a disciplinary force and any suppression or misrepresentation would be viewed very seriously.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner was selected for the post of Grade-II Women Constable on 16.10.2017. In her application, she has stated that she was an unmarried. However, the doctor, who has examined the petitioner has given a Certificate on 27.02.2018 that she was pregnant. Since this petitioner has suppressed the material fact that



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she was already married, the first respondent has issued a charge memo; conducted an enquiry and has also imposed the punishment of termination from service. More over, during the enquiry proceedings, the petitioner has admitted that her marriage was inter caste marriage and apprehending some problem in her village, she suppressed the same. The status of marriage is not a precondition for the selection of a candidate for the particular post. However, the petitioner, without knowing the consequences, has stated that she is unmarried. The learned counsel for the petitioner claims that since it is a inter caste marriage and she had some problem with that and without understanding the consequences, she has stated in the application that she is unmarried. No doubt, the information sought for by the authority, if not disclosed as required, would amount to suppression of materials facts and the suppression/concealment of material facts by the candidates would definitely disqualify their candidature. As pointed out by the learned Additional Government Pleader, the Police force is a disciplinary force, wherein, suppression of material facts on any ground cannot be entertained. At the same



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time, the Honourable Apex Court, while considering similar matters, has laid down certain guidelines in ***Avtar Singh Vs. Union of India and others*** reported in **2016 8 SCC 471**, which is extracted as under:-

“34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects.

35. Suppression of “material” information presupposes that what is suppressed that “matters” not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.

36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous



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criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.

37. The “McCarthyism” is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformatory theory cannot be ruled out in toto nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for cancelling candidature or discharging an employee from service.

38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.



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38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted:

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.



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38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. 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 subject to decision of such case.



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38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing



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the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.”

7. Clause 38.2 of the above judgment emphasis that while passing an order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case and the same is applicable to the present case on hand.

8. In view of the above, this Court is inclined to set aside the order of punishment imposed by the first respondent and accordingly, the order of termination of service imposed on the petitioner in Na.Ka.No.A2/6344/2017 dated 09.03.2018 is hereby set aside and the matter is remanded back for fresh consideration by the first respondent by taking into consideration of the case of the



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petitioner in the light of the guidelines laid down by the Honourable
Apex Court as stated supra.

9. Accordingly, this writ petition is disposed of. No costs.

Consequently, connected Miscellaneous petitions are closed.

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NCC: Yes/No

Index: Yes

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