



WP.(MD).No.24056 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.24056 of 2023

and

W.M.P.(MD)Nos.20208 and 20211 of 2023

J.Rajasekaran

... Petitioner

Vs.

- 1.The Director General of Police,
Tamil Nadu Police Head Quarters,
Dr.Radhakrishnan Salai,
Chennai.
- 2.The Superintendent of Police,
Vallam Circle,Thiruvayur Sub Division,
Thanjavur.
- 3.The District Superintendent of Police,
Vallam Circle,
Thiruvayur Sub Division,
Thanjavur.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the record on the file of the second respondent pertaining to the impugned proceeding dated 16.03.2022 and quash the same as illegal and consequently direct him to appoint to the petitioner to the post of Police Constable Grade II for the recruitment year 2020



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of the subsequent recruitment.

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For Petitioner : Mr.V.Sujatha
For Respondents : Mr.P.Veera Kathiravan,
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 second respondent pertaining to the impugned proceeding dated 16.03.2022 and to direct him to appoint to the petitioner to the post of Police Constable Grade II for the recruitment year 2020 of the subsequent recruitment.

2.The Tamil Nadu Uniform Services Recruitment Board during the year 2017 has called for applications for the post of Police Constable Grade II. Pursuant to the same, the petitioner applied for the above post. The petitioner successfully completed the written examination, physical examination test, physical endurance test, certificate verification and finally, she was called for interview and thereafter he was provisionally selected on the basis of certificate verification. However, the second respondent in due course of time passed the impugned order rejecting the



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petitioner's candidature on the basis of criminal antecedent that the petitioner is treated as the one who has involved in a criminal case. Challenging the same, this Writ Petition came to be filed.

3.The learned counsel for the petitioner submitted that the petitioner is a Inter South Zone Kabaddi player for Alagappa University. During the year 2011, a false case was foisted against him and 20 others in Crime No.308 of 2011, when he was just about to complete 18 years. Thereafter, a final report was filed on the file of learned Judicial Magistrate No.II, Thanjavur in C.C.No. 300 of 2012 for the charges under Sections 147, 294 and 323 IPC. After a full-fledged trial, the said case was dismissed by the learned Judicial Magistrate by an order dated 12.04.2017, thereby acquitting all the accused including the petitioner.

4.The learned counsel for the petitioner further contended that the offences charged against the petitioner are not serious in nature and hence, there is no bar in awarding him with appointment. That apart, he insisted that the second respondent failed to note that the petitioner was elected under sports quota, which is valid only up to the year 2021 and considering his



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continuous efforts, the second respondent ought to have appointed him to the post of Police Constable Grade II. That apart, he submitted considering the trivial nature of the offence, in which the petitioner was involved, he pressed for allowing the Writ Petition.

5.The learned Additional Advocate General submitted that the learned Judicial Magistrate No.II, Thanjavur delivered a judgment on 12.04.2017 acquitting the Accused 1 to 20 including the petitioner as 12th accused due to the prosecution witnesses turning hostile and on the ground of benefit of doubt. Consequently, the candidature of the petitioner was rejected by the second respondent for the petitioner's involvement in a criminal case. The rejection of the petitioner's candidature is not against procedure and Rules. He submitted that the endorsement made by the second respondent was issued in accordance with Rule 13(b) of the Tamil Nadu Special Police Subordinate Services, which states that a 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. Hence, he contended that all the procedures were duly followed within law and there is no violation of rules and procedures in the issuance of the impugned



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order by the second respondent as against the petitioner and on that basis, pressed for dismissal of the Writ Petition.

6.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.

7.Though this is not a case of suppression in the application as to the concluded criminal case, a careful reading of the impugned endorsement dated 16.03.2022 would reveal that during the police verification of the character and antecedents of the petitioner, the Inspector of Police, District Special Branch Thanjavur District and the Inspector of Police, Vallam Circle of Thanjavur District had enquired and had revealed that the petitioner was involved in a criminal case in Vallam Police Station in Crime No.308 of 2011 under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC for beating the de facto complainant namely one Anandakumar, during competition of Kabaddi with iron rod along with his friends and he was added as Accused No.12. Though he was acquitted under Section 248 Cr.P.C., by the learned Judicial Magistrate No.II, Thanjavur on 12.04.2017 in C.C.No.300 of 2012,



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the same was only on the basis of the fact that the complainant had turned hostile. Hence, considering the fact that he was not acquitted honourably in this case as per Special Rule 13(b) along with Explanation 1 of the Tamil Nadu Police Subordinate Service Rules, treating him as the one involved in criminal case, the impugned order came to be passed. The Hon'ble Apex Court in the case of **Avadhar Singh V. Union of India and others** reported in **2016 (8) SCC 471** has held that *"if a candidate was involved in a criminal nature of trivial case and he has also truthfully declared the same, even in cases where conviction have been recorded which would not render the incumbent unfit for the post in question, the employer can consider him for the post and the same is at the discretion of the employer. However, if acquittal is recorded in the case involving moral turpitude or offenses of heinous/serious nature on the ground of benefit of doubt or any other technical ground, the employer may consider the relevant factors available as to appointment."*

8.In the instant case the petitioner has truthfully declared the conclusion of a criminal case. Though the acquittal is on the basis of benefit of doubt, the entire crux of the criminal case would



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revolve around the tussle between two teams of Kabaddi in a playground and the petitioner was very young at the time of the alleged offense. Apart from the said criminal case, he had no other criminal antecedent even before and thereafter.

9.In view of the same, fully fortified by the mandates of the judgment of the Hon'ble Apex Court in the ***Avadar Singh*** case, this Court hereby quash the impugned order dated 16.03.2022 and remand back the file of the petitioner to the second respondent with a direction to pass appropriate orders by considering the case of the petitioner afresh in accordance with law within a period of 12 weeks from the date of receipt of copy of this order.

10.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

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