



WP(MD). No.24127 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 12/04/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

**WP(MD). No.24127 of 2023 and
WMP(MD) No.20294 and 25575 of 2023**

Veerapandi. V,

... Petitioner

Vs

**1. The Director General of Police,
Officer of Director General of Police,
Chennai 600 004..**

**2. The Member Secretary,,
Tamil Nadu Uniformed Services
Recruitment Board,
Egmore,
Chennai 600 008..**

**3. The Superintendent of Police,
Virudhunagar District,
Virudhunagar..**

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 3rd respondent in C.No. A2(1)/21573/2019 dated 04.09.2023 and quash the same as illegal and void and consequently direct the respondents 1 to 3 to confirm the



WP(MD). No.24127 of 2023

provisional selection of the writ petitioner in the post of Gr.II.P.C. for the year 2019 herein within a time frame as stipulated by this Court.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy
For Respondent : Mr.J.Ashok for R1 to R3
Mr.Veera Kathiravan for R2
Additional Advocate General
assisted by Mr.J.Ashok
Additional Government Pleader

ORDER

Challenging the rejection order of the third respondent dated 04.09.2023 and for a consequential direction to the respondents 1 to 3 to confirm the provisional selection of the writ petitioner in the post of Gr.II.P.C. for the year 2019, the petitioner is before this Court.

2. The petitioner who got selected to the post of Grade II Police Constable has been served with a rejection order of appointment on the ground that he was involved in a criminal case.

3. Heard the learned counsel for the petitioner, the learned Additional Advocate General for the respondent No.2 and the learned



WP(MD). No.24127 of 2023

Additional Government Pleader for the respondents 1 and 3.

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4. The learned counsel for the petitioner submitted that the petitioner had involved in a criminal case and the same has been taken cognizance in STC Nos.779 and 784 of 2016 for offences under Sections 294(b), 323 and 506(I) IPC. However, both the cases have been ended in compromise and hence, the proceedings have been quashed by this Court in CrI.O.P.(MD) Nos.9216 and 9245 of 2017 vide order dated 19.07.2017.

5. It appears to be a case in counter and the petitioner stands as the third accused in the counter case. While passing the order dated 19.07.2017 in the aforesaid criminal original petitions, this Court has made the following observations:

“6. The Joint Compromise Memo signed by the petitioners and the defacto complainants, have been filed before this Court. The compromise memos, dated 10.07.2017 and 11.07.2017 respectively, signed by the parties and the respective Counsels indicate that the parties have entered into compromise stating that their dispute were settled amicably out of Court and that they have signed in the compromise memo agreeing to withdraw the respective cases.



WP(MD). No.24127 of 2023

7. The parties appeared before this Court and expressed in unequivocal terms that they have signed in the Compromise Memo on their own free will and volition. The identity of the parties are verified with reference to the authenticated documents produced by the parties before this Court. The identity of the parties are also confirmed by the learned Government Advocate(Criminal side) through the first respondent police.

8. Having regard to the fact that the parties have agreed to withdraw the respective cases, this Court is of the view that no useful purpose will be served by keeping this matter pending. Hence these Criminal Original petitions are allowed and in terms of the compromise memos, the criminal case in S.T.C. Nos.779 and 784 of 2016 on the file of the learned Judicial Magistrate, Aruppukottai, are quashed in toto and the Joint Compromise Memo signed by the respective parties in both cases shall form part of the order.”

6. It is not out of place to mention that the petitioner has been charged for the offences under Sections 294(b), 323 and 506(I) IPC and the case and the counter case have been taken on file as STC Nos.779 and 784/2016 respectively. However, in the impugned order, it has been stated that as per Rule 14(b) of the Tamil Nadu Special Police



WP(MD). No.24127 of 2023

Subordinate Service, if a person is acquitted or discharged due to benefit of doubt or due to the fact that the complainant turned hostile, he shall be treated as a person involved in a criminal case.

7. For the sake of convenience, Rule 14(b) of the Rules is extracted hereunder:

“Rule 14(b):-No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority that

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

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

(iii) such 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 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.

Explanation (2): A person involved in criminal case at the time of Police verification and the case is yet to be disposed of and subsequently ended in honourable acquittal or treated as mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment



WP(MD). No.24127 of 2023

only participating the next recruitment.”

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8. However, the position on this point is no more res integra as it has been held in various judgments of the Hon'ble Supreme Court as well this Court that if the individual has been acquitted on compromise in cases of trivial nature, the same can be considered in favour of the candidate. In fact, the position has been laid down by the Hon'ble Supreme Court in Avtar Singh v. Union of India reported in (2016) 8 SCC 171 as under:

“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 filing 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.”

9. The same has been followed by this Court in approval in WA No.938/2021 etc. batch and the Division Bench of this Court has summarised the proposition of law by relying on the various judgments of the Hon'ble Supreme Court and also the law laid down in Avtar Singh



and has arrived at the following proposition:

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“(c).Where the criminal case has been quashed (before police verification) on the basis of a compromise and the offence is of trivial in nature, the same 18/65 <https://www.mhc.tn.gov.in/judis> W.A.(MD)No.938 of 2020 etc., batch cases can be considered in favour of the candidate in the current selection itself. However, if the offence involved is not of a trivial in nature, the same cannot be considered for appointment.

d).Where a candidate having knowledge about his involvement in a criminal case had suppressed the same in his application and the said offence is not trivial in nature, he is not entitled to seek any appointment. On the other hand, in cases of trivial offences, without knowledge about his involvement or after having knowledge had suppressed his involvement, the employer in his discretion is entitled to consider the candidature by considering his character and past antecedents.

(e).Where the candidate is involved in petty/trivial cases like family dispute or dispute with neighbors or shouting of slogans or traffic offence where fine was imposed, the same can be considered to be offence of trivial/petty in nature. However, the offence against women, children or under NDPS Act should never be considered to be an offence of trivial in nature.

(f).Where the candidate is involved in criminal offences under Juvenile Justice Act, he/she is to be considered in the light of the Division Bench Judgment of this Court dated 01.03.2023 in Rev.Appln.No.17 of 2023 in W.A.(MD)No.938 of 2020 etc., batch cases W.A.No.2759 of 2018 (The Superintendent of Police,



WP(MD). No.24127 of 2023

Villupuram District Vs.S.Rajeshkumar)

(g). Pending the recruitment process, if a candidate is discharged from the criminal case or acquitted in the criminal case, he/she shall be eligible to be considered for the next recruitment process as per Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules”.

10. For the instant case, what is applicable is clause (c), wherein, it refers to compromise of the offences.

11. In the case on hand, the trial has not commenced and even prior to that the case has got quashed by virtue of the order of this Court due to the reason that the parties have entered into a compromise. The very nature in which the cases have been registered as case in counter itself would show that there was a quarrel between the parties, where the petitioner was also unfortunately a party. Even the cases have been registered against both the parties only for minor offences, which are trivial in nature, no criminality can be attached to the petitioner for rejecting his candidature for the appointment as Police Constable.



WP(MD). No.24127 of 2023

12. The appreciation could have been different if the petitioner had involved in a serious offence or offence involving moral turpitude. But the same is not the case here and hence, the respondents could have considered the case of the petitioner in the light of the judgment of the Hon'ble Supreme Court and this Court as referred to above. Since the impugned order has been passed with regard to the above legal position and the petitioner's candidature has been rejected despite his involvement was found in a case of trivial nature, I feel that the petitioner's case has to be considered for offering him an order of appointment.

13. For all these reasons, this writ petition is allowed and the impugned order dated 04.09.2023 of the third respondent is quashed and the respondents are directed to consider the candidature of the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petitions are closed.

12.04.2024

RR

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WP(MD). No.24127 of 2023

TO

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Chennai 600 004..

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WP(MD). No.24127 of 2023

R.N.MANJULA, J

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