



W.P.(MD)No.24734 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.24734 of 2023 &

W.M.P.(MD)No.20909 of 2023

S.Senthil

... Petitioner

VS.

1.The State of Tamil Nadu,
Rep. by the Principal Secretary,
Home Department,
Secretariat,
Chennai - 600 009.

2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.

3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.

4.The Director General of Police,
O/o.the Director General of Police,
Tamil Nadu, Chennai - 600 004.

5.The Superintendent of Police,
O/o.the Superintendent of Police Office,
Pudukottai, Pudukottai District.

... Respondents



W.P.(MD)No.24734 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 5th respondent in his proceedings Na.Ka.No.A2(1)/9478/Cr-IV/2023 dated 11.05.2023 and quash the same as illegal and consequentially to direct the respondents to consider the petitioner for appointment to the post of Grade II-Police Constable in pursuant to the notification No.02/2022 dated 30.06.2022 within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.Veerakathiravan
Additional Advocate General
Assisted by Mr.J.Ashok
Additional Government Pleader

ORDER

Heard Mr.H.Mohammed Imran, learned counsel appearing for the petitioner and Mr.Veerakathiravan, learned Additional Advocate General appearing for the respondents.

2. The petitioner has filed this petition seeking to quash the impugned order of the fifth respondent in Na.Ka.No.A2(1)/9478/Cr-



W.P.(MD)No.24734 of 2023

WEB COPY

IV/2023 dated 11.05.2023 and consequently direct the respondents to consider him for appointment to the post of Grade II-Police Constable in pursuant to the notification No.02/2022 dated 30.06.2022.

3. The impugned order has been passed stating that the petitioner is the third accused in a criminal case in Crime No.218 of 2012 of Kandharvakottai Police Station, wherein charge sheet has been filed and is pending before the concerned Court and suppressing the same, the petitioner has filled up the application form and hence, he cannot be appointed to the post of Grade II Police Constable.

4. Mr.H.Mohammed Imran, learned counsel appearing for the petitioner submitted that the petitioner was a minor at the relevant point of time when the alleged criminal case has been registered against him and the same has not been considered by he authorities concerned and the impugned order has been passed.



W.P.(MD)No.24734 of 2023

WEB COPY

5. In this regard, it is appropriate to refer the earlier Division Bench Judgment of the Principal Seat of this Court in ***Rev.Appl.No.17 of 2023 dated 01.03.2023*** in the case of ***The Superintendent of Police, Villupuram District, Office of the Superintendent of Police, Villupuram - 605 602 vs. S.Rajeshkumar***, wherein after discussing various Judgments in connection with the offences committed by juvenile delinquents, it has been observed as under.

"21.Even if the Respondent had suffered conviction as per the Provisions of Juvenile Justice (Care & Protection of Children) Act, 2015, there cannot be any disqualification on a juvenile in conflict with law. If the submission of the learned Additional Advocate General is to be accepted, then the Rules go against the Parliamentary intent in enacting the socially beneficial legislations. Therefore, the learned Senior Counsel for the Respondent/Writ Appellant would contend that this Review Application is not maintainable and is to be dismissed in the light of the Provisions of the Juvenile Justice (Care & Protection of Children) Act, 2015. He further submitted that convictions under Sections 294 (b), 353 of IPC were treated as petty offences and were set aside by the Hon'ble Supreme Court. Therefore, in the light of the above, the learned Senior Counsel for the Respondent seeks to dismiss this Review Application and also prays to direct the State to consider the appointment of the Respondent/Writ Appellant.

22.On consideration of the rival submissions, in the light of the Provisions of Juvenile Justice (Care & Protection of Children) Act, 2015 particularly Section 24 of the Act and in the light of the submission made by the learned Senior Counsel for the Respondent and on perusal of the rulings cited by the learned Senior



W.P.(MD)No.24734 of 2023

WEB COPY

Counsel for the Respondent/Writ Appellant, the submission of the learned Additional Advocate General seeking Review is unacceptable and unjustified.

23.If the submission of the learned Additional Advocate General is to be accepted, it amounts to negating the well-intended social legislation namely the Juvenile Justice (Care & Protection of Children) Act, 2015. Also, in the light of the reported ruling of the Hon'ble Supreme Court relied on by the learned Senior Counsel, even after the case of the Respondent/Writ Appellant is to be treated as conviction for the sake of argument, still, the Provision under Sections 294 (b) and 353 of IPC are treated as petty offences. Therefore, the same could be ignored by the candidate himself on the advice of the learned Counsel who appeared for him in the criminal trial. When the case had ended in acquittal, there is no reason to give details regarding facing criminal cases that cannot be treated as suppression of material fact.

24.In the alternative, even as per the Rules quoted by the learned Additional Advocate General, as pointed out by the learned Senior Counsel for the Respondent, in the previous instances they had given the benefit of the Probation of Offenders Act to the persons who have been convicted under Sections 294(b), 353 of IPC treating them as petty offences, the Accused had been considered for appointment.

25.In the light of the fact that after a tough selection procedure, the candidate from rural village, who had passed the written test and physical test and had been successful, had been denied the appointment based on the Tamil Nadu Police Subordinate Service Rules ignoring the Parliamentary intent in enacting the Juvenile Justice (Care and Protection of Children) Act, 2015 which was enacted by the Parliament as a signatory to the Beijing Convention on the Rights of the children under the guidance of the United Nations. Therefore, the submission of the learned Additional Advocate General has to be rejected. Otherwise, it amounts to convicting and attaching the stigma on the Respondent and all the Judicial Orders



WEB COPY

in favour of the Respondent being thrown to the wind. Therefore, the submission of the learned Additional Advocate General is rejected. In the light of the submission of the learned Senior Counsel for the Respondent placing reliance on the rulings cited above are accepted.

26. Here by invoking the Juvenile Justice (Care and Protection of Children) Act the Respondent in this Review Application and the Petitioner in the original Writ Petition had obtained order from the High Court to convert the acquittal as honorable acquittal in the principles of the Juvenile Justice (Care and Protection of Children) Act. Therefore, the Review Application by the State has to be rejected.

27. The appeal by the State in the case of The Director General of Police and another -vs- K.Sneha in W.A.No.2046 of 2021 to reverse the order of the Writ Court was rejected with the following observations:

“4.3. We find that even in exercise of powers under Section 482 Cr.P.C., discretion could have been exercised in the present case and in any case the discretion exercised by learned Single Judge under Article 226 of the Constitution of India, in the facts of this case, can not be said to be erroneous in any manner, which may call for any interference in exercise of power under Clause 15 of Letters Patent.”

28. In a similar case in W.P.No.177 of 2013 [Sivanesan Vs. The Superintendent of Police, Tiruvannamalai District, Tamil Nadu] the then learned Judge of this Court (Justice K.Chandru) had on the basis of the rulings cited by the learned Counsel for the Petitioner in (2011) 4 SCC 644 [Commissioner of Police -vs- Sandeep Kumar]; (2006) 5 SCC 475 [Lata Singh -vs- State of UP]; 2008 (2) CTC 97 [Manikandan -vs- Chairman, Tamil Nadu Uniformed Services Recruitment]; AIR 2011 Supreme Court 2903 [Ram Kumar -vs- State of UP] and (2008) 3 SCC 222 [State of Haryana -vs- Dinesh Kumar] had allowed the Writ Petition filed by the said Sivanesan stating as under:

“19. In the light of the above background, the impugned order passed by



W.P.(MD)No.24734 of 2023

WEB COPY

the Superintendent of Police cannot be justified and hence it is set aside.

The respondent is hereby directed to grant an appointment order to the petitioner within a period of three weeks from the date of receipt of copy of this order. Accordingly, the writ petition will stand allowed. No costs.

Consequently connected miscellaneous petition stands closed.”

29. In a similar case in W.P.No.1145 of 2010 [C.Vijayaraj -vs- The Director General of Police] the then learned Judge of this Court (Justice R.S.Ramanathan) had on the basis of the rulings cited by the learned Counsel for the Petitioner has held as under:

“9. In the batch of cases, in W.P.(MD)No.474 of 2013 etc., I delivered judgment today, wherein in respect of cases, where the petitioners have suppressed their involvement in the criminal cases, either in the application form or during police verification and such persons, who were latter acquitted can be considered for appointments, considering the fact that the Hon'ble Supreme Court has referred the issue, whether a person can be denied a job for suppression of involvement in the criminal case in the application form or during the verification roll to the Larger Bench and set aside the orders of the respondents in rejecting the application on that ground. In these cases also, in respect of the petitioner in W.P.(MD)No.16858 of 2012 in the order, dated 24.08.2010, it was stated that he was eligible to participate in the next recruitment. In W.P.(MD)No. 10539 of 2012, the case was compromised between the parties and the witnesses turned hostile and he was acquitted. In W.P(MD)No.1525 of 2011, the petitioner was acquitted, as the witnesses turned hostile. In W.P(MD)No.1145 of 2010, the petitioner's offence was compounded and he was acquitted. In W.P.(MD)No.5190 of 2010, the petitioner was acquitted and in all these cases, the petitioners were prosecuted for offences under sections, 294(b), 323, 354, 427, 341 and 506(ii) IPC and



WEB COPY

such offences could not be characterised as offences involving Moral Turpitude. Though, the petitioners participated in the selection for the year 2007 to 2010, immediately after their rejection, they approached this court by filing the writ petitions and therefore, their candidatures cannot be rejected on the ground that the selection for the year 2007 to 2010 was over.”

30. Under these circumstances, the learned Additional Advocate General seeking to revise the judgment already passed in the Writ Appeal based on the latest judgment of the Hon'ble Supreme Court reported in 2022 SCC Online SC 1300 in the case of Satish Chandra Yadav -vs- Union of India and Others, where it was held as follows:

“Service Law – Probation/Probationer – Termination of Service – Suppression of material information – Broad principles of law applicable to such cases - Enumerated – On facts held, termination of service of CRPF probationer for suppression of material information of pending criminal cases justified.”

31. This judgment is the basis for filing the Review Petition seeking review of the judgment already passed by the Division Bench of this Court in W.A.No.2759/2018 dated 11.01.2019. The Division Bench judgment in W.A.No.2759/2018 holds good in the light of the section 19 of Juvenile Justice (Care and Protection of Children) Act, 2000, prior to the amendment. As per Section 24 of Juvenile Justice (Care and Protection of Children) Act, as amended in 2015, the facts in the latest ruling of the Hon'ble Supreme Court is not applicable to the facts and circumstances of this case. In the reported ruling of the Hon'ble Supreme Court, it is a suppression of the pending criminal case. It is the contention of the learned Senior Counsel for the Respondent that the Respondent/Writ Petitioner was not at all arrested and he obtained Anticipatory Bail. He was under the impression that the case is not pending since he had been granted Bail. It is the view of ordinary citizen. Further,



W.P.(MD)No.24734 of 2023

WEB COPY

the learned Senior Counsel submitted that as per Section 24 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the Parliamentary intent in enacting the legislation has to be considered that there shall not be any stigma against a Juvenile in conflict with law even if convicted. Here it is not conviction, it was acquittal and this Court in the Criminal Revision modified it as honorable acquittal as the Respondent in this Review Petition was a Juvenile before the trial Court. The claim of the juvenility could be raised at any stage. Therefore, that was the reason for filing Crl.RC.No.39/2018. Under those circumstances, the Review Petition based on the latest ruling will not hold good in the light of the Section 24 of Juvenile Justice (Care and Protection of Children) Act, amended in 2015. Therefore, if the Review is to be accepted, it amounts to ignoring the Parliamentary intent in enacting a progressive legislation whereby the Juvenile in conflict with law is permitted to join the mainstream without stigma. Rehabilitation and social reintegration of the Juvenile in conflict with law to join the mainstream are the main objects of the Act. If the State itself seeks to attach stigma, then the purpose of enacting the Juvenile Justice (Care and Protection of Children) Act, 2015 will be defeated, which the Court of law will not accept. Therefore, grounds of Review do not hold good considering the age of the Respondent/Writ Appellant as Juvenile on the date of the alleged offence and Rule 14(b)(ii) & (iv) of Tamil Nadu Special Police Subordinate Service Rules cannot prevail over the Parliamentary enactment, benefiting a Juvenile in conflict with law. Therefore, the Review Application has to necessarily fail and hence, it is dismissed"

6. The present petitioner is also a juvenile on the date of alleged crime and the criminal case ended in acquittal. In such case, the involvement of the petitioner in any criminal case while he was a juvenile



W.P.(MD)No.24734 of 2023

cannot be considered serious for denying him the appointment. Since the above Judgment has dealt with the similar situation, the petitioner also deserves the result of the above Judgment. Hence, I feel it is appropriate to set aside the impugned order and remit the matter back to the fifth respondent to re-appraise the issue in the light of the above observations and pass further orders.

7. In view of the same, the writ petition is **disposed of** and the impugned order of the fifth respondent in Na.Ka.No.A2(1)/9478/Cr-IV/2023 dated 11.05.2023 is set aside and the matter is remitted back to the file of the fifth respondent. The fifth respondent is directed to re-consider the same in the light of the above observations and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

09.07.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
mbi



W.P.(MD)No.24734 of 2023

To
WEB COPY

- 1.The Principal Secretary,
Home Department,
Secretariat,
Chennai - 600 009.
- 2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.
- 3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.
- 4.The Director General of Police,
O/o.the Director General of Police,
Tamil Nadu, Chennai - 600 004.
- 5.The Superintendent of Police,
O/o.the Superintendent of Police Office,
Pudukottai, Pudukottai District.



WEB COPY



W.P.(MD)No.24734 of 2023

R.N.MANJULA, J.

mbi

W.P.(MD)No.24734 of 2023

09.07.2024