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W.P.No.1402 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2025

CORAM
THE HON'BLE Mr. JUSTICE M.DHANDAPANI

W.P.No.1402 of 2024

R.Suresh

... Petitioner

Vs.

1.Tamil Nadu Uniformed Services Recruitment Board,
Rep. By its Member-Secretary,
Pantheon Road, Egmore,
Chennai – 600 008.

2.The Director General of Police,
Mylapore, Chennai – 600 004.

3.The Superintendent of Police,
Dharmapuri District, Dharmapuri – 5.

... Respondents

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 third respondent in his proceedings Na.Ka.No:A3/23722/2021 dated 06.01.2022 and in C.No:A3/006111/2023 dated 08.06.2023, quash the same as unsustainable in law and issue consequential directions to the respondents herein to appoint the petitioner (bearing Registration No's



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1201544 and 2308049 of the Common Recruitment of the year 2020 and 2022 respectively) as Grade II Police Constable.

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For Petitioner : Mr.R.Thamaraiselvan

For Respondents 1 to 3 : Mr.R.U.Dinesh Raj Kumar,
Additional Government Pleader

ORDER

The relief sought in this writ petition is to call for the records relating to the impugned Order passed by the third respondent in his proceedings Na.Ka.No:A3/23722/2021 dated 06.01.2022 and in C.No:A3/006111/2023 dated 08.06.2023, quash the same as unsustainable in law and issue consequential directions to the respondents herein to appoint the petitioner (bearing Registration No's 1201544 and 2308049 of the Common Recruitment of the year 2020 and 2022 respectively) as Grade II Police Constable.

2. The case of the petitioner is that the petitioner joined the Indian Army as a Sepoy on 17.07.2003 and relieved in August 2019. Pursuant to the notification issued by the first respondent in the year 2020, the petitioner has applied for the post of Grade-II Police Constable, Jail Warden & Firemen and also cleared all the examinations. But, his candidature was

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rejected by the third respondent vide proceedings dated 06.01.2022 on the ground that the petitioner has suppressed the criminal case registered against him under Section 323 & 324 of I.P.C by Papparapatti Police Station. Once again, the first respondent issued another Notification on 30.06.2022 for the very same post and again the petitioner has applied for the said posts and came out successful in all the examinations. But, this time, the petitioner has mentioned the facts of criminal case and his honourable acquittal from the said case. Under these circumstances, the third respondent vide proceedings dated 08.06.2023, again rejected the petitioner's candidature on the ground that while conducting police verification, it was found that the petitioner was concerned in Papparapati Police Station in Crime Number:44/2009, dated 26.01.2009 and the case ended in acquittal. Hence, his appointment is not feasible for consideration for the post of Grade-II Police Constable in the Uniformed Service. Challenging the aforesaid proceedings dated 06.01.2022 and 08.06.2023, the petitioner has come forward with the present writ petition.



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3. Learned counsel for the petitioner would further submit that the issue arises in this writ petition is no longer *res-integra* and the same was decided by the Hon'ble Apex Court as well as this Court in catena of judgments and the same reads as follows:

(i) Avtar Singh Vs. Union of India, reported in (2016) 8 SCC 471

(ii) Commissioner of Police and others Vs. Sandeep Kumar, reported in (2011) 4 SCC 644

(iii) Vikas Kumar Vs. State of Rajasthan, reported in 2025 SCC online 396

(iv) Division Bench of this Court in W.A.Nos.938 of 2021 and etc., batch, dated 05.06.2023.

All the above decisions held that in case, there is a suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filing the application/verification form and such fact later comes to the knowledge of employer, any of the recourses formulated therein appropriate to the case may be adopted. In a case trivial in nature, in which conviction has been recorded, such as shouting of slogan or for a petty offence which if



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disclosed would not have rendered any incumbent unfit for the post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse. And if the acquittal had already been recorded in a case involving moral turpitude or offence 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 the application by exercising their discretion.

4. Learned counsel for the petitioner would further submit that in the present case, the petitioner's name was not found in the F.I.R., or Charge Sheet and only his nickname was found as A2 and moreover, it was only a family dispute that the petitioner's mother made allegation against the petitioner and his father, which was subsequently resolved between them. Even the Criminal Court has recorded honourable acquittal in favour of the petitioner in the year 2014. Accordingly, he prays for appropriate orders.

5. Per contra, learned Additional Government Pleader appearing for the respondents would submit that as per Rule 14(b) of Tamil Nadu



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Special Police Subordinate Service Rules applicable to TSP candidates,

no person shall be eligible for appointment to the service by direct recruitment, unless he satisfies the appointing authority that his character and antecedents are such as to qualify him for such service; and such a person does not have more than one wife living and not involved in any criminal case before police verification. As per explanation (1) of the said Rule, 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. By applying explanation (1) of the said Rule, the candidature of the petitioner was rejected on the ground that the petitioner mother herself made a complaint against the petitioner and his father. Though the acquittal was disclosed by the petitioner, it is a discretion of the authority to decide, whether the person who has such an antecedent is entitled to be recruited in the Uniformed Service or not. Thereby, the authority has considered and rejected the candidature of the petitioner, which need not be interfered. Accordingly, he prays for dismissal of this writ petition.



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6. Heard the learned counsel on either side and perused the materials available on record.

7. The facts in the present case are not in dispute. Admittedly, the petitioner joined the Indian Army and after rendering 16 years of unblemished service, he obtained voluntary retirement. Thereafter, in the year 2020, he has participated in the recruitment for the post of Grade-II Police Constable and did not disclose the criminal case against him and the honourable acquittal from the same. Hence, his candidature was rejected by the third respondent. Subsequently, in the year 2022, the recruitment was called for to the post of Grade-II Police Constable, wherein, the petitioner has participated in the selection process by disclosing his acquittal in the application form. Even then, the petitioner's candidature was rejected by the third respondent.

8. In the case at hand, the aforesaid criminal case was initiated by the petitioner's mother against the petitioner and his father in C.C.No.128 of 2009 and the same was ended in acquittal in the year



2014. In this background, the relevant decisions of the Hon'ble Apex Court and this Court are as follows:

(i) The Hon'ble Apex Court in the case of Avtar Singh Vs., Union of India and others, reported in (2016) 8 SCC 471 has held as follows:

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.

38.1 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 recourse 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.

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



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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.

(ii) Hon'ble Apex Court in the case of the Commissioner of Police and others Vs., Sandeep Kumar, reported in (2011) 4 SCC 644 has held as follows:

8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

11. As already observed above, youth often commits indiscretions, which are often condoned.

12. It is true that in the application form the respondent did not



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mention that he was involve din a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.”

(iii) The Hon’ble Division Bench of this Court in W.A(MD)Nos.938 & 939 of 2020 etc., Batch cases, dated 05.06.2023 has held as follows:

43.W.P(MD).No.15022 of 2022:

(a). The petitioner namely J.Thirumeni was involved in a criminal case in Crime No.228 of 2011 for the offence under Sections 231, 294(b), 323, 324 and 506(ii) I.P.C on 03.08.2011. The petitioner was acquitted on the ground of hostility of witnesses on 12.07.2016. The petitioner has informed his involvement in the criminal case both in the application form as well as during police verification. However, his candidature was rejected on that ground that his character and antecedents are not satisfactory. Challenging the same, the present writ petition has been filed.

(b).The learned counsel appearing for the petitioner had contended that the writ petitioner having been acquitted 3 years prior to the selection process, ought not to have been again rejected in the 3rd occasion. He had further contended that the nature of alleged offence would disclose that it is a petty case and hence, the acquittal on the ground of benefit of doubt should not be put against the petitioner from seeking public employment. Hence, he prayed for allowing the writ petition.

(c).A perusal of the order passed by the Judicial Magistrate, Alangudi in C.C.No.24 of 2013 reveals that the alleged offences have arisen out of an incident relating to



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Vilakkupoojai conducted in a temple. The complainant and the petitioner herein belong to the same village. The complainant had turned hostile and the petitioner has been acquitted. A perusal of the impugned order indicates that the candidature of the petitioner was rejected on the same ground in the selection of the year 2017. Again for the same ground, he has been rejected in the current selection process also.

(d). Considering the fact that the dispute arises out of conducting Vilakku Pooja in a temple and the nature of offences are trivial in nature, this Court is of the view that it would not be fair on the part of the authority to reject the candidature of the petitioner for the second occasion on the ground of involvement in a criminal case. This Court is also of the considered opinion that the petitioner has properly disclosed about his involvement in the criminal case both in the application form as well as during police verification.

(e). In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 8th respondent to consider the matter afresh and pass orders in the light of the proposition of law laid down by this Court in Paragraph No.19 of this judgement.

(f). The writ petition stands allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

9. Applying the ratio laid down by the Hon'ble Apex Court as well as the Division Bench of this Court, it is clear that the criminal case against the petitioner ended in acquittal, prior to seven years of selection



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process and the said criminal case was only between the family members. Further, the perusal of the order of Judicial Magistrate, Pennegaram in C.C.No.128 of 2009 reveals that the alleged offence had arisen out of the family dispute, wherein the petitioner's mother is a complainant, who turned hostile along with other witnesses. The Sub-Inspector of Police, who investigated the case also did not reveal any incriminating offence against the petitioner. Hence, the rejection of the petitioner's candidature is not sustainable.

10. In view of the factual matrix of the case and the considered opinion that the petitioner has properly disclosed about the involvement in the criminal case and the acquittal, this Court feels that it would be appropriate to set aside the impugned proceedings vide Na.Ka.No.A3/23722/2021, dated 06.01.2022 and C.No:A3/006111/2023, dated 08.06.2023. Accordingly, the said proceedings are set aside. Consequently, this Court directs the second respondent to consider the matter afresh, in the light of the law laid down by the Hon'ble Apex and this Court, within a period of 12 weeks from the date of receipt of a copy of this order.



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With the aforesaid observation and direction, this writ petition stands allowed. No costs.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

To

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M.DHANDAPANI.J,

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