



W.P.No.4143 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDER RESERVED ON : 19.02.2025

ORDER PRONOUNCED ON : 17.04.2025

CORAM

THE HON'BLE MRS. JUSTICE N.MALA

W.P.No.4143 of 2022

and

WMP.No.4277 of 2022

P.Silambarasan

...Petitioner

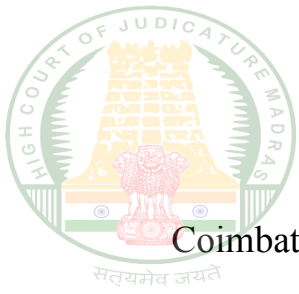
Vs.

1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Officer Campus,
Pantheon Road,
Egmore, Chennai – 600 008.

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

3.The State of Tamil nadu,
Rep. by its Secretary,
Home Department,
Secretariat,
Chennai – 600 009.

4.The Assistant Commissioner of Police,



W.P.No.4143 of 2022

Coimbatore District.

...Respondents

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Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by 4th respondent in Na.Ka.No.A4/54120/2021 dated 05.01.2022 and quash the same as illegal, arbitrary and non-est in law and consequently, direct the respondents to appoint the petitioner in the post of Grade II Police Constable in the Tamil Nadu Subordinate Police Service within the time stipulated by the Hon'ble court.

For Petitioner : Mr.A.R.Balaji

For Respondents : Mr.L.S.M.Hasan Fazil,

Additional Government Pleader

ORDER

Writ petition is filed challenging the impugned order dated 05.01.2022 of the 4th respondent, rejecting the petitioners candidature for selection to Grade II Police Constable post in Tamil Nadu Subordinate Police Service, on the ground of non disclosure of previous criminal case in his application.

2.The petitioner applied for the post of Grade II Police Constable-AR, recruitment for which post applications were called for in 2020. The petitioner



W.P.No.4143 of 2022

successfully cleared the written examination and physical test. The petitioner submitted his original certificates for verification on 26.07.2021, and after evaluation of the application, the Tamil Nadu Uniform Service Recruitment Board, published final provisional selection list on 25.11.2021, provisionally selecting the petitioner to the post of Grade II Police Constable-AR under the sports quota. While the petitioner was anxiously awaiting the appointment order, the petitioner received the impugned order dated 05.01.2022, rejecting his candidature for non disclosure of previous criminal case. The respondents invoked Rule 14 (b)(ii) and (iv) of the Tamil Nadu Special Police Subordinate Service Rules, 1978, for rejecting the petitioners candidature for non disclosure of his involvement in a petty case under Section 75(1)(c) of the Tamil Nadu City Police Act, 1888, which culminated in a Crl. Case in Cr.No.625 of 2019 on the file of the learned Judicial Magistrate VI, Coimbatore. The Criminal Court found the petitioner guilty and fined him Rs.400/-, which he paid on the same day. According to the petitioner, the impugned order failed to note the triviality of the offence under Section 75 of the Tamil Nadu City Police Act, 1888. The petitioner further stated that as the



W.P.No.4143 of 2022

offence was petty, it would not come within the ambit of moral turpitude, so as to bar him from Government Service. The petitioner further stated that the impugned order was passed in violation of para 38(4) of *Avtar Singh Vs. Union of India and others* ((2016) 8 SCC 471), wherein leverage was given to cases of petty nature. The petitioner therefore prayed that impugned order was unsustainable and same deserved to be set aside.

3.The respondents filed detailed counter stating *inter alia* that the Director General of Police and Head of Police force Tamil Nadu, Chennai, assessed police verification of character, antecedents and medical examination of candidates who were provisionally selected for the post of Grade II Police Constable. It was further submitted that, at the time of verification, it was found that the petitioner was involved in a criminal case in Crime No.625 of 2019, under Section 75(1)(c) of the Tamil Nadu City Police Act, 1888. The petitioner was arrested on 14.08.2019, and the case was taken on file on 30.08.2019. The petitioner was convicted before the learned Judicial Magistrate VI and fine of Rs.500/- was

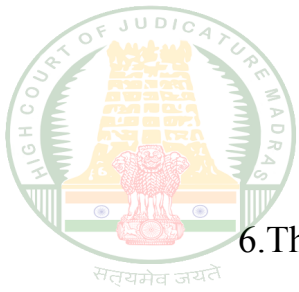


W.P.No.4143 of 2022

imposed on 30.08.2019. According to the respondents, as the petitioner failed to mention his involvement in the aforesaid criminal case in the application in the verification column in S.No.15 and 16, the petitioners candidature was rejected by invoking Rule 14(b) of the Tamil Nadu Special Subordinate Service Rules, 1978. The respondents relying on Full Bench judgment of this court dated 28.02.2008, and certain other judgments of this court as well the Hon'ble Apex court, stated that the impugned order could not be found fault with, as the same was passed because of suppression of the petitioner's involvement in the criminal case. The respondents therefore stated that the writ petition deserved no merit and hence liable to be dismissed.

4.I have heard both the learned counsels and perused the materials available on record.

5.The crux of the issue in the writ petition is whether the impugned order rejecting the petitioners candidature for non disclosure of the criminal case is valid or not.



W.P.No.4143 of 2022

6.The facts are undisputed and therefore the same are not traversed. In the impugned order, it was stated that the petitioner had suppressed his involvement in criminal case in Crime No.625 of 2019, for the offence committed under Section 75(1)(c) of the Tamil Nadu City Police Act, which was disposed with imposition of fine of Rs.500/-. In the impugned order, Rule 14(b)(ii) and (iv) of the Tamil Nadu Special police Subordinate Rules, 1978, was invoked to reject the petitioner's candidature.

7.The respondents relying on Rule 14(b) (ii) and (iv) of the T.N. Special Police Subordinate Rules, 1978, submitted that the Hon'ble Full Bench in Manikandan Vs. The Chairman, held that under explanation I to clause (iv) of the Tamil Nadu Special Police Subordinate Services Rules, a person acquitted on benefit of doubt or discharged in a criminal case, could still be considered as disqualified for selection to the police service of the State and that the same could not be termed as illegal or unjustified; and that the failure of a person to disclose in the application form, either his involvement in a criminal case or the pendency



W.P.No.4143 of 2022

of a criminal case against him, entitled the appointing authority to reject his application on the ground of concealment of a material fact, irrespective of the ultimate outcome of the criminal case.

8.True, the Full Bench has held that the respondents are entitled to reject the application of a person on the ground of concealment of a material fact, irrespective of the outcome of the criminal case. The issue is not as much as the entitlement of the respondents to reject the candidature of the petitioner on the ground of non-disclosure of criminal case, but the manner in which the power was exercised. In this regard the Judgment of the Hon'ble Supreme Court in *Avtar Singh Vs. Union of India and others* ((2016) 8 SCC 471), which is a benchmark Judgment on the aspect is relevant. In the said Judgment while acknowledging the power of the employer to verify the antecedents of the candidate and to cancel the candidature of the candidate, for suppression of material information, the Court also held that the candidate though had no unfettered right to appointment, had nevertheless a right not to be dealt with arbitrarily. The Court held that the power



W.P.No.4143 of 2022

to cancel the candidature needed to be exercised in a reasonable manner with objectivity, having due regard to the facts of the case.

9.The Hon'ble Supreme Court in Para 38 of the Judgment after referring to several Judgments, summarised its conclusions in Para's 38.1 to 38.11. For the purpose of the present case it would suffice to refer to paras 38.4.1 to 38.4.3 which read as follows:

“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 has 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



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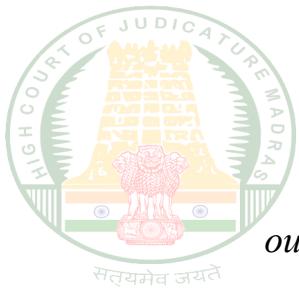


W.P.No.4143 of 2022

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.”

10. Admittedly in the present case the petitioner was fined for his involvement in a petty case under Section 75(c) of the Chennai City Police Act., 1888. The petitioner was aged about 23 years at the time of the offence. In my view a chance for reformation could have been afforded to the petitioner who was only 23 years, when the offence occurred. The respondents in my view could have exercised their discretion by treating it as “follies of Youth”. The Hon’ble Supreme Court in the aforesaid Judgment of *Avtar Singh Vs. Union of India and others* ((2016) 8 SCC 471) , in para 37, while dealing with the inter play of reformatory theory with the power of respondents to cancel the candidature held in para 37 as follows:

“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



W.P.No.4143 of 2022

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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.”

11.The respondents seem to have mechanically exercised the power to cancel the candidature on the ground of non disclosure, without taking an objective view of the matter with reference to various factors like the nature of the post, the duties attached to it, the petty nature of criminal offence and its adverse impact on the selection of the candidate etc. In my view mere non-disclosure of criminal antecedent would not ipso facto entail cancellation of the petitioner’s candidature, but a holistic view of all aspects should be objectively considered before rejecting the candidature. I am fortified in my view by the Judgment of the Hon’ble Supreme Court in **AIR 2022 SC 2829** in the case of **Pawan Kumar Vs. Union of India and others**. Pertinently the said Judgment related to the appointment of a constable as in the present case. The Hon’ble Supreme Court in the said case held as hereunder in para 13.

“13.What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information



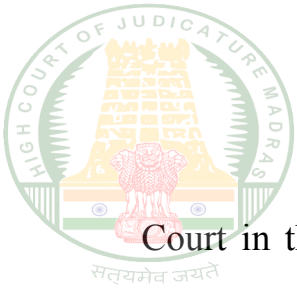
W.P.No.4143 of 2022

WEB COPY

regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service Rules into consideration, while taking appropriate decision regarding continuance/suitability of the employee into service. What being noticed by this Court is that mere suppression of material/false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.”

12.The above said Judgment has been followed in the case of ***Ravindrakumar Vs. State of Uttar Pradesh and others*** reported in **2024(5) SCC 264**. In my view the Judgments relied on by the respondents on the facts of the case, do not deserve merit.

13.On a conspectus of the entire facts and circumstances of the case and in view of the unequivocal statement of law laid down by the Hon’ble Supreme



W.P.No.4143 of 2022

Court in the cases referred to above, I am of the view that the impugned order deserves to be set aside and the matter needs to be remitted to the fourth respondent for fresh consideration. The impugned order is therefore set aside, the matter is remitted to the fourth respondent for consideration in the light of the Hon'ble Supreme Court Judgments referred to herein before. The respondent is directed to consider the matter afresh and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

14.The Writ Petition is allowed. No costs. Consequently, the connected writ miscellaneous petition is closed.

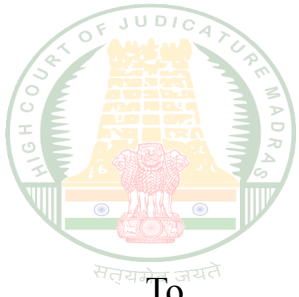
17.04.2025

Index:Yes/No

Speaking Order: Yes/No

Neutral Citation:Yes/No

dsn/ah



W.P.No.4143 of 2022

To
WEB COPY

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Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Officer Campus,
Pantheon Road,
Egmore, Chennai – 600 008.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
- 3.The Secretary,
Home Department, Secretariat,
Chennai – 600 009.
- 4.The Assistant Commissioner of Police,
Coimbatore District.



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W.P.No.4143 of 2022

N.MALA,J.

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Pre-Delivery Order in W.P.No.4143 of 2022

Order Pronounced on 17.04.2025