



W.A.No.733 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 24.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.No.733 of 2023
and
C.M.P.Nos.7038 and 7040 of 2023**

R.Sankar

... Appellant

-Vs-

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Home Department,
Secretariat,
Chennai - 600 009.
2. The Director General of Police,
State of Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.
3. The Deputy Inspector General of Police,
Western Zone,
Coimbatore.
4. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus,
Egmore,
Chennai - 600 008.
5. The Superintendent of Police,



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Erode District,
Erode.

... Respondents

PRAYER : Appeal under Section XV of Letters Patent against the order dated 30.01.2023 made in W.P.No.2042 of 2023.

For Appellant : Mr.R.Jayaprakash

For Respondents : Mr.M.Venkateswaran
Special Govt. Pleader for R1,R3&R5

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order dated 30.01.2023 made in W.P.No.2042 of 2023.

2. The appellant herein was the writ petitioner who participated in the selection process to the post of Police Constable Grade-II pursuant to the notification issued by the fourth respondent dated 17.09.2020.

3. The appellant has applied for the said recruitment and he had passed the written examination and also qualified in the physical test conducted by the Uniformed Services Recruitment Board.

4. At the time of certificate verification, it was found that, there was a



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criminal case against the appellant / petitioner, ultimately ended in acquittal in C.C.No.7 of 2019, by an order dated 29.09.2021 passed by the learned Judicial Magistrate, Kodumudi. Based on the same, the fifth respondent issued an order dated 11.01.2022 informing the appellant / petitioner that the appellant was acquitted from the criminal case by giving him the benefit of doubt and under such circumstances, the petitioner cannot be considered for selection to the post of Police Constable Grade-II. Aggrieved over the same, he had moved the writ petition.

5. The writ Court having considered the factual matrix has ultimately dismissed the writ petition by the impugned order.

6. The learned counsel appearing for the appellant / petitioner would state that the appellant / petitioner has been acquitted from the criminal case by the concerned Court honourably, as the prosecution has not proved the case beyond reasonable doubt and therefore, it can be construed as honourable acquittal. However, in the order impugned before the writ Court since the respondents have stated that it is not the honourable acquittal, it is based on the benefit of doubt, which is a factual error, based on which the candidature of the appellant / petitioner ought not to have been rejected by the respondents and this issue has



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not been considered by the learned Judge in proper perspective before passing the order impugned, hence, the order impugned is liable to be interfered with, he contended.

7. In support of his contention, the learned counsel appearing for the appellant has relied upon the judgment of the Division Bench of the Madurai Bench of this Court in batch of writ appeals in W.A.(MD)Nos.938 of 2020 etc., batch dated 05.06.2023 where the Division Bench has summarized the preposition of law of this issue which reads thus:

"(D) SUMMARY OF PREPOSITION OF LAW:

19. In the light of the above said deliberations, the preposition of law could be summarized as follows:

(a). In case of honourable acquittal, discharge, case closed as mistake of fact, quashing of F.I.R/Charge Sheet before the date of police verification, the same should be considered in favour of the candidate in the current selection itself.

(b).Where the candidate has been acquitted on the ground of benefit of doubt or hostility of witnesses (before the date of police verification), that would not confer any right upon the candidate to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.



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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 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.Apln.No.17 of 2023 in W.A.No.2759 of 2018 (The Superintendent of Police,



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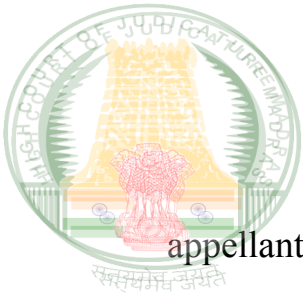
Villupuram District Vs.S.Rajeshkumar)

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(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."

8. In the above said decision cited by the learned counsel appearing for the appellant, he has very much relied upon Clause (e) of Paragraph No.19 and would state that, the offence where the petitioner / appellant is involved in petty / trivial cases like family dispute or dispute with neighbours or shouting of slogans or traffic offence where fine was imposed, such kind of cases can be construed only as petty / trivial cases and involvement in those cases cannot make a candidate ineligible from considering for appointing or enlistment to the post of Police Constable Grade-II and therefore, on that ground, the order impugned is erroneous, hence he seeks indulgence of this Court.

9. We have also heard Mr.M.Venkateswaran, learned Special Government Pleader appearing for the respondents 1, 3 & 5 who would submit that though in the impugned order of the writ Court, it has been stated that, the acquittal is not a honourable acquittal, also the fact that the pendency of the criminal case itself has been suppressed in the application submitted by the



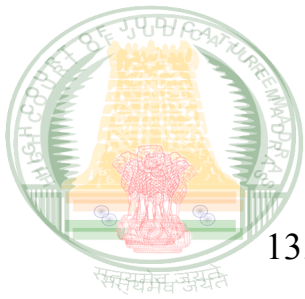
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appellant / petitioner as at the time of making the application such case was pending against him for trial, therefore it is a wilful suppression, that can also to be added as one of the reason for rejecting the candidature of the appellant / petitioner. Therefore the learned Special Government Pleader would submit that for both these reasons, the rejection of the candidature of the appellant / petitioner can be justified, hence there has been no error in the approach of the learned Judge in passing the order impugned.

10. We have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. It is an admitted case on the part of the appellant / petitioner that at the time of making the application, there has been a criminal case in C.C.No.7 of 2019 on the file of the Judicial Magistrate, Kodumudi, pending trial.

12. The offence punishable in the said case was the offences under Section 294(b), 323 & 506(ii) (wrongly mentioned as 506(i)) of IPC.



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13. There has been four witness on the side of the prosecution, out of four witnesses, P.W.1, P.W.2 & P.W.3 seems to have turned hostile, only P.W.4 deposed in favour of the prosecution. Therefore, the trial Court has come to the conclusion that since three out of four witnesses of the prosecution side turned hostile, only on the strength of P.W.4, it cannot be stated that the prosecution has proved the case and therefore, the accused was acquitted through the said order of the judgment passed by the Court below.

14. If that being so, as stated by the learned Special Government Pleader appearing for the respondents 1, 3 & 5, it cannot be construed as a honourable acquittal, because three out of four prosecution witnesses have turned hostile.

15. That apart, insofar as suppression is concerned, the learned Judge in the impugned order, at paragraph No.7 has recorded the following:

"7.On carefully going through the orders that were relied upon by the learned counsel for the petitioner, they are cases where either the criminal case had ended in acquittal by the time the application was submitted or the applicant therein was not aware about a pending criminal case. Under such circumstances, this Court took into consideration the fact that there was no willful suppression of fact in the application submitted by the candidate. Accordingly, the parameters laid down by the Apex Court in



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Avatar Singh case referred supra was relied upon. In the present case, the petitioner was aware about the pending criminal case and he was undergoing trial and the petitioner had conveniently stated in the application form that there was no criminal case filed or pending against him as on the date of submission of the application form on 10.10.2020. Admittedly, the petitioner was acquitted from the criminal case in C.C.No.7 of 2019 only on 11.01.2022. Hence, the subsequent acquittal of the petitioner from the criminal case, will not come to an aid of the petitioner, since he had suppressed the pendency of a criminal case as on the date when the application was submitted."

16. It is based on the judgment of the Apex Court in the case of ***Avtar Singh vs. Union of India*** reported in **2016 (8) SCC 471**, whether the applicant before making any application had knowledge over the pendency of the criminal case or involvement of the criminal case, and if so, with the knowledge, he has not mentioned such involvement of pendency of the criminal case, that would led to wilful suppression of the material facts and therefore, insofar as the case of the appellant / petitioner is concerned, on the date when he made an application, the criminal case was pending against him with the aforestated offences and it has been converted into a calender case and was pending for trial, therefore the ignorance cannot be pleaded by the appellant /petitioner to state that in his absence the case has been registered and therefore, he had no



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acknowledge about the case.

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17. Since he had full knowledge about the case pending against him, the non-disclosure would amount to suppression.

18. Coming to the circumstances under Paragraph No.19(e) of the judgment dated 05.06.2023 in W.A(MD).Nos.938 of 2020 etc., batch is concerned, the Division Bench has enumerated various situations, one of the situation is 'where the candidate is involved in petty / trivial cases like family dispute or dispute with neighbours or shouting of slogans or traffic offence where the fine was imposed, the same can be considered to be an offence of trivial in nature'.

19. Herein the case in hand, first of all, it is not a mere case of shouting slogans with neighbours or family dispute or traffic offence for which he has been imposed a fine, whatever the alleged offences which has been mentioned in the said charge sheet and therefore, it cannot be construed as a petty or trivial offence. When that being so, it is a case which would not come under the category of petty or trivial cases for which the trial was undergoing at the time when he made an application. Certainly, therefore the appellant / petitioner

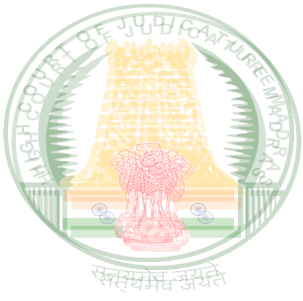


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should have mentioned or stated or informed in the column mentioned in the application as to the pendency of the criminal case or involvement of himself in the criminal case. Such suppression on the part of the appellant / petitioner can only be construed as a wilful suppression and for such wilful suppression, whether the candidature of such person who made such wilful suppression can be accepted as a candidature for the purpose of recruitment to the post of Police Constable Grade-II in a Disciplined Force, already answers have been given in very number of cases by this Court, where such a wilful suppression can be one of the reason for which such application can be rejected out rightly.

20. Herein the case in hand, therefore, for both the reasons, one is that, he has not been acquitted from the criminal case honourably, secondly that he has made wilful suppression at the time of making application, the candidature of the appellant / petitioner could have been very well rejected, and therefore since it has been rejected in the case in hand, such a rejection made through the order impugned before the writ Court cannot be found fault with.

21. In this aspect, the issue has been considered in proper perspective by the learned Judge and he passed the order impugned, hence it does not warrant any interference at our hands.



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22. Resultantly, this Writ Appeal fails and hence, it is dismissed.

However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

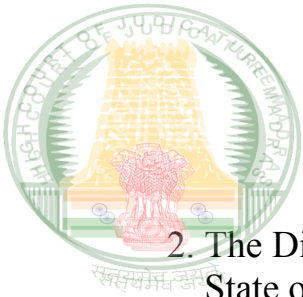
(R.S.K., J.) (A.D.M.C., J.)
24.03.2025

NCC : Yes
Index : Yes
Speaking Order : Yes

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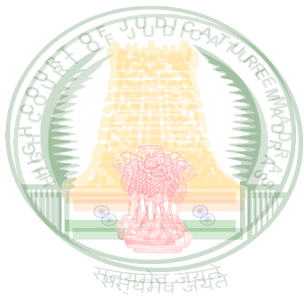
To

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