



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.03.2025

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.No.16437 of 2019

Vignesh,
S/o C.Raja,
No.2/260, Near kaaliamman Kovil,
Thekkampatti,
Vattakaadu (Post),
Omalur Taluk,
Salem District.

...

Petitioner

Vs.

1] The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board, 807,
2nd floor, Anna Saalai,
Chennai-600002.

2] The Director General of Police,
Mylapore, Chennai-600004.

3]The Commissioner of Police,
Sankagiri Main Road,
Annadanapati,
Salem-636 002.

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the record relating to the impugned communication in Na.Ka.No.A6/41/779/2019 dated 05.07.2019 issued



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by the 3rd respondent and quash the same and consequently direct the respondents to consider the petitioner for the post of Police Constable, Jail Warden and Fireman 2017-2018.

For Petitioner : Mr.A.Swaminathan

For Respondents: Mr.T.Chezhian, AGP

ORDER

The writ petition has been filed seeking to call for the records relating to the impugned communication in Na.Ka.No.A6/41/779/2019 dated 05.07.2019 issued by the 3rd respondent and quash the same and consequently direct the respondents to consider the petitioner for the post of Police Constable, Jail Warden, and Fireman 2017-2018.

2. Heard Mr. A. Swaminathan, learned counsel for the petitioner, and Mr.T.Chezhian, learned Additional Government Pleader for the respondents, and perused the materials available on record.

3. The petitioner had applied for the common recruitment selection for the post of police constable, jail warden, and fireman during the recruitment year 2017-18. He had successfully passed the competitive examinations and cleared all



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other physical and medical tests. He was provisionally selected and invited for certificate verification. The respondents did not consider the petitioner for selection by stating that a case was registered against the petitioner at Suramangalam Police Station in Crime No.519/2016 under Sec.147, 341, 323, and 506(i) IPC, and the charge sheet has been filed against him on 06.06.2016 before the Judicial Magistrate No.2, Salem. In view of the same, it is stated that the petitioner has criminal antecedents and he was not selected, and hence the petitioner has filed this writ petition challenging the same.

4. The learned counsel for the petitioner submitted that the petitioner is in no way involved in the occurrence involving the case in Crime No. 519/2016, which culminated in a criminal case in CC. No. 300/2016 before the Judicial Magistrate No. 2, Salem. He further submitted that in the criminal case he has been acquitted on 20.11.2018, but the same has not been considered by the respondents in an objective manner.

5. The learned Additional Government Pleader for the respondents submitted that as on the date when the police verification was made, there was a criminal case pending against the petitioner. Hence, the petitioner cannot say that



he has not been tainted with criminal records.

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6. Attention was drawn to the judgement of the Division Bench of the Hon'ble Madurai Bench of the Madras High Court dated 05.06.2023 in the case of ***The Director General of Police, Tamil Nadu Police Department, and another Vs. K.Indhu Kumar. [W.A(MD).Nos.938 & 939 of 2020 batch]***. In the said judgment, it is held that if a candidate is acquitted on the ground of benefit of doubt or because witnesses have turned hostile, that would not confer any right upon the candidate to claim appointment as a matter of right, and it is for the employer to consider the suitability of the candidature based upon his conduct and antecedents if the offenses are trivial in nature. The relevant portion of its order is extracted hereunder:

"18.....

(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.



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(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.

(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



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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, 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. "

8. The learned counsel for the petitioner also referred the very same judgment and stated that the Hon'ble Division Bench has held that the issues such as family issues and disputes with neighbors, shouting slogans or other offenses are trivial in nature and in cases of complaints raised based on that issue, it is for the employer to decide. As the petitioner has no criminal antecedents and the same has not been properly considered by the respondents.



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9. On perusal of the records, the petitioner has been acquitted from the criminal case. The case has been registered for the offense under Sec. 147, 341, 323 and 506(i) IPC, which are all not only bailable offenses and but also trivial in nature. In the impugned order, it appears that the 4th respondent has passed a mechanical order without even applying his mind to the contents of the order. In the impugned order, states about some other person by the name of Govindarajan. That criminal case has got nothing to do with the petitioner.

10. In view of the discussion and also in light of the position of law already settled by the Division Bench of the Hon'ble Madurai Bench of Madras High Court in *The Director General of Police, Tamil Nadu Police Department* (cited supra), I feel the impugned order passed by the 3rd respondent should be set aside and the first respondent should be given with appropriate direction.

; may be directed to reconsider the issue and pass an order afresh

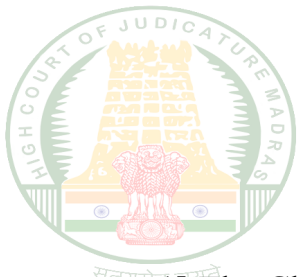
11. In the result, this writ petition stands **allowed**. The impugned order passed by the 3rd respondent in Na.Ka.No.A6/41/779/2019 dated 05.07.2019 is set aside, and the respondents are directed to consider the candidature of the



petitioner and issue a fresh order as expeditiously as possible by considering the fact that the petitioner is arrayed as the 3rd accused and he did not play any major role in that occurrence and the offenses for which the case has been registered also trivial in nature. No costs. Consequently, the connected miscellaneous petition if any, is closed.

13.03.2025

Index : Yes
Internet : Yes/No
Speaking : Non-Speaking Order
Neutral : Yes /No
jrs



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R.N.MANJULA, J.
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