



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 16428 of 2024

Jayaprakash

... Petitioner

..Vs..

1. The Director General Police
Mylapore, Chennai – 04.
2. The Superintendent of Police
Salem District.
3. Tamil Nadu Uniformed Services Recruitment
Board, 71, Adithanar Road, Pudupet,
Komaleeswaranpet, Egmore, Chennai.

[R-3 suo motu impleaded dated 24.06.2024 made in W.P.No.
16428/2024 b y DBCJ]

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to appoint the petitioner as Gr.II Constable/Gr.II Jail Warder or Fireman forthwith.

For Petitioner

:: Mr. R.Nalliyappan

For RR1 & 2

:: Ms. A.Bakkia Lakshmi



WEB COPY

2

Government Advocate

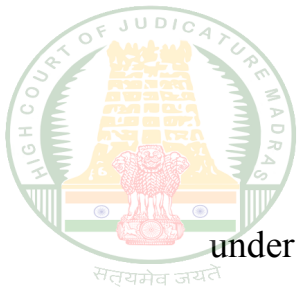
For 3rd Respondent

:: No appearance

ORDER

The Writ Petition has been filed in the nature of a Mandamus directing the respondents to appoint the petitioner as Gr.II Constable/Fr.II Jail warder or Fireman forthwith.

2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner had applied for Grade – II police examination conducted by the Tamil Nadu Uniformed Services Recruitment Board (TNUSRB) and participated in the written examination and other tests. He claimed that he had passed the said examination but however, the respondents had refused to give him an appointment order since at that time of selection, the petitioner was an accused in FIR in Cr.No. 97 of 2020 registered by the Karuppur Police Station, Salem. Subsequently, on completing investigation, final report had been filed again arraying the petitioner as an accused. The final report was taken cognizance as C.C.No. 871 of 2020 by the Judicial Magistrate No.II Salem, for offences punishable



under Sections 294(b), 323, 324 and 506(ii) of IPC. By Judgment dated

12.07.2022, the learned Judicial Magistrate No.II acquitted the petitioner for all charges.

3. Placing reliance on the said Judgment, the petitioner now claims that his selection should be revisited, reviewed and he must be appointed as Grade II Police Constable / Grade II Jail Warder or Fireman with effect from the date of selection of the year 2022.

4. Counter affidavit had been filed on behalf of the respondents wherein they had stated that the petitioner was acquitted only because the witnesses, who had to depose on behalf of the prosecution were residents of the same locality and had turned hostile and therefore, there was no other option but for the learned Judicial Magistrate to acquit the petitioner. It could not be considered as a Hon'ble acquittal. It had also been contended that subsequently in the year 2023, there was yet another recruitment conducted and the petitioner had not participated in the same. It had been stated that the clock cannot be set back and the petitioner be appointed merely because subsequently he had been acquitted of all charges. On the



side of the respondents, it had also been contended that a Full Bench of this

WEB COPY Court in **W.P.No. 38289 of 2005 batch** by Judgment dated 28.02.2008 in

[Manikandan and others Vs. Director General of Police] had observed as

follows:-

“12. The impugned Rule creates a classification of persons who were not involved in criminal cases and persons, who were involved in criminal cases. The object of creating such a classification is to ensure that only those persons whose character and antecedents were beyond any shadow of doubt alone, are permitted entry into the police service of the State. The rule is only a reflection of the intention of the Government to maintain purity of administration. The Rule merely provide a check post or a filter point, to ensure that only those, who had a clean record of personal life, are admitted into the system. That the existing system has already come under heavy dose of criticism cannot be swept under the carpet. Therefore, as an employer, the Government is entitled to prescribe, especially in a disciplined force like the Police Force, such a restriction at the entry level. There cannot be a dispute about the proposition that an employer has the right to prescribe any qualifications for appointment to a post. If that be



so, an employer has a concomitant right even to prescribe disqualifications when it comes to appointment to a post. The prescription that Ceaser's wife should be above suspicion, cannot be said to be faulty at least in this regard.”

5. The Full Bench had very categorically held that the rule which had been projected before the Full bench categorising persons, who were involved in a criminal case and those were not involved in criminal case, must be upheld and it had been stated that the persons, who are recruited to the police should not preferably have any case registered against them.

6. On the side of the respondents, further reliance had been placed on the Judgment reported in **2016 (8) SCC 471 [Avtar Singh Vs. Union of India]** wherein it had been held by the Supreme Court as follows:-

“No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to the employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all the relevant



aspects.”

WEB COPY

7. It is thus clear that the petitioner cannot claim right of appointment and that too when a subsequent recruitment procedure had been conducted. On the date when the petitioner had applied and stood considered for selection, he was unfortunately categorised as an accused. Subsequently, the acquittal was not based because the prosecution was not able to establish the case but owing to the witnesses turning hostile. I am not inclined to issue Mandamus. The Writ Petition stands dismissed. No order as to costs.

25.02.2025

vsg

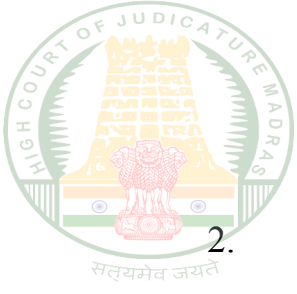
Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The Director General Police
Mylapore, Chennai – 04.



WEB COPY

7



2. The Superintendent of Police
Salem District.
3. Tamil Nadu Uniformed Services Recruitment
Board, 71, Adithanar Road, Pudupet,
Komaleeswaranpet, Egmore, Chennai.

C.V.KARTHIKEYAN, J.,

vsg



WEB COPY



W.P.No. 16428 of 2024

25.02.2025