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WP No. 31179 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 18-03-2025**

CORAM

**THE HONOURABLE MS JUSTICE R.N.MANJULA**

**WP No. 31179 of 2018**

**and**

**WMP 36384 of 2018**

1. V.Abilash

S/o.B.Velmurugan, No.2/203, Mettu  
Street, Gunakarambakkam Village,  
Sriperambathur Taluk, Kancheepuram  
District -631 553. Kancheepuram

Petitioner(s)

Vs

1. The Director General of Police  
Myapore, Chennai -600 004.Chennai

2.The Chairman, Tamil Nadu  
Uniformed  
Services Recruitment Board, Chennai  
600 008.

3.The Superintendent of Police,  
Kancheepuram, Kancheepuram District,

Respondent(s)



**PRAYER:** Writ petition is filed under Section 226 of the Constitution of India for issuance of a Writ of Certiorarified mandamus to call for the records of the 3rd respondent pertaining to the order in Na.Ka.No.M1/15396/2018 dated 30/10/2018 and quash the same and consequently direct the respondents to recruit the petitioner for the post of Grade II police Constable for the year 2017-2018 with all consequential benefits.

For Petitioner(s): M/s.R.M.Rithik Veeramani

For Respondent(s): Mr.P.Kumaresan  
Additional Advocate General  
Assisted by Mr.T.Chezhiyan  
Additional Govt. Pleader

### **ORDER**

This Writ Petition has been filed to call for the records of the 3rd respondent pertaining to the order in Na.Ka.No.M1/15396/2018 dated 30/10/2018 and quash the same and consequently direct the respondents to recruit the petitioner for the post of Grade II police Constable for the year 2017-2018 with all consequential benefits.

2. The petitioner who has been applied to the post of Grade II Police Constable and who has successfully completed the written test and physical test, had been rejected the appointment by an order dated 30.10.2018 by the third respondent for the reason that his antecedents were not satisfactory. It is stated that the third respondent has given the reason that he had suppressed his



involvement in the criminal case in which he was acquitted.

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3. The petitioner challenged the impugned order dated 30.10.2018 that it has been passed in violation of Article 14, 16 and 21 of the Constitution of India and against the recruitment Rule 13 (b) & (e) of Tamil Nadu Police Subordinate Service Rules. On the basis of the complaint given by one Ramu, a case has been registered against the petitioner and his father in Cr.No.253 of 2015 under Section 147, 341, 427 and 506(ii) IPC r/w. Section 149 IPC. A charge sheet has been filed at the end of the investigation in C.C.No.361/2015. The above case has been pending for trial and the case was ended in acquittal as against the petitioner and others on 13.12.2017 as the witness has turned hostile.

4. Mr.P.Kumaresan, the learned Additional Advocate General, appearing for the respondents, submitted that a person who got acquitted and discharged on the benefit of doubt due to the fact that the complainant had turned hostile, shall be treated as a person involving in a case. However, it is admitted that the petitioner did not suppress his involvement in the criminal case but he was acquitted in the said case.

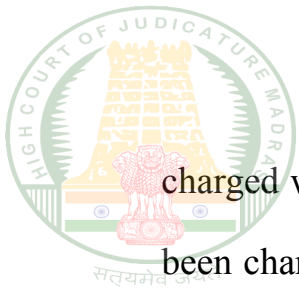
5. The learned Additional Advocate General further submitted that as per the proposition of law settled down by the Hon'ble Supreme Court in ***Avatar Singh Vs. Union of India and others reported in (2016) 8 SCC 471***, it has been held that if acquittal has already been recorded in a case involving moral



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turpitude or offence of heinous / serious nature, on technical ground and it is not a case of clean acquittal or the benefit of reasonable doubt has been given, the employer can consider all the relevant facts available as to his antecedents and take appropriate decisions as to the continuance of the employee with the service. By relying on the same proposition, a Division Bench of this Court held in W.A.(MD) No.938 & 939/2020 & batch, dated 05.06.2023, have crystallized the law by considering various factors and the various judgments of the Hon'ble Supreme Court.

6. It is held by making reference to the judgment of the Hon'ble Supreme Court held in ***Union of India Vs. Methu Meda reported in (2022) 1 SCC 1*** that if a candidate has been acquitted on the benefit of doubt or because of 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 his candidature.

7. So far as the petty and trivial cases are concerned, the Division Bench has held that the cases arising out of the family dispute or within neighbours, shouting of slogans and traffic offences where fine was imposed, can be considered as the offences trivial in nature. So it goes without saying that the offence for which the petitioner has been convicted by imposing a payment of fine is immaterial in case the offences involved is a petty offence or trivial in nature. In the instant case the provisions under which the petitioner has been



charged were not petty offences or offences trivial in nature. The petitioner has been charged for the offences under Section 147, 341, 427 and 506(ii) IPC r/w. Section 149 IPC, though they are less serious in nature.

8. Mr.R.M.Rithik Veeramani, the learned counsel for the petitioner, submitted that the petitioner has not even involved in the offence and he was arrayed only as 11<sup>th</sup> accused. In fact it is a case in counter and the complainants are sister and brother.

9. It appears that in the family dispute between the sister and brother, on the complaint given by the brother, the petitioner is also implicated. Probably because he may be the complainant's neighbour or friend. The records would show that a compromise has been arrived between the parties probably because it was a counter complaint given by the family members. Considering the nature of the offence which are not non-compoundable in nature, the compromise petition was rejected. Thereafter, the witnesses were turned hostile and in view of that all the accused including the petitioner were acquitted. Though the offences are not trivial in nature and the petitioner has been acquitted only on the basis that the witnesses have turned hostile, it is a fit case where the respondents could have considered the circumstances and exercised their best decision in order to consider things positively. The respondents have the discretion to accept or reject the candidature and the candidates who have been acquitted in offences other than the petty offences, but not the offences



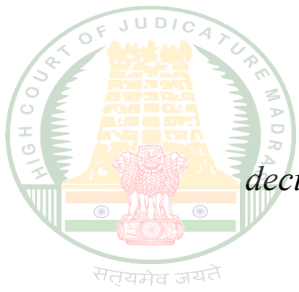
involving moral turpitude, are expected to consider the holistic circumstances without having a pedantic mindset.

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10. In the impugned order dated 30.10.2018 despite there is an observation that a compromise petition has been filed and offences are non-compoundable and consequently dismissed, no specific reasons as to how the respondents cannot consider the candidature has not been mentioned. It has been simply stated that the candidature cannot be considered as a person who got acquitted due to the benefit of doubt and witnesses turning hostile, cannot be given automatic appointment. It does not mean that all those candidates should be rejected without analysing the matter on a case to case basis by considering the factual aspects of each matter.

11. In this regard it is relevant to cite the order of this Court held in ***K.Balachandran Vs. The Chairman, Tamil Nadu Uniformed Service Recruitment Board and others, in W.P.No.8135/2020 dated 04.12.2020***, wherein it is held as under:

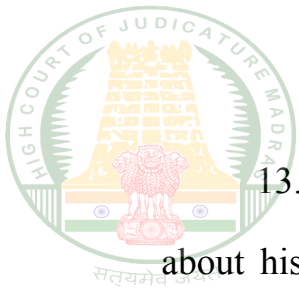
*“26. To hold every person involved in a criminal case as a criminal across the spectrum, regardless of the nature of offence charged, is a sordid reflection of a warped understanding of the jaded administration, branding someone a criminal and barring him from seeking public employment for his life time, even if the offences were trivial in nature, amounted to integrating “Mccarthyism” into the*



*decision making process in the police administration.*

27. *As far as the case on hand is concerned, the selection of the petitioner is not disputed by the respondents. The only objection against the ultimate appointment is what they have stated in the impugned order. This Court is of the considered view that the reasons set forth in the impugned order cannot be countenanced both in law and on facts. Since the authority failed to appreciate the circumstances and the facts which led to the acquittal of the petitioner, this Court has undertaken the said exercise and finds that ultimately, the petitioner was acquitted of the charges on merits. Moreover, this Court has also taken into consideration how the petitioner was maliciously prosecuted by his former friend which fact was also recorded by the Inspector of Police in his report which is referred to supra. Unfortunately, the third respondent has not appreciated the crucial factors for consideration while deciding the suitability of the petitioner in terms of the law laid by the Courts.”*

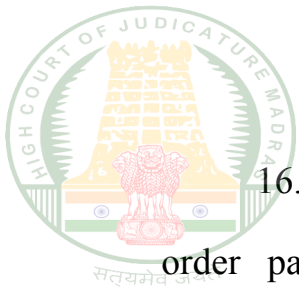
12. In the above judgment it has been stated that a person cannot be held as a criminal across a spectrum, regardless of the nature of the offences and other circumstances. On the very same aspect another order of this court held in ***R.Vigneshwaran Vs. The Director General of Police & others, in W.P.No.3009 of 2018 dated 19.12.2024*** wherein the matter has been appraised from a social angle with humanitarian outlook before rejecting a person's candidature just because he has involved in a criminal case but subsequently acquitted.



13. It is not a case where the petitioner has suppressed the information about his involvement in the criminal case. The facts that the petitioner was arrayed as 11<sup>th</sup> accused and counter complaint has been given by brothers and sisters who had endeavoured to go on compromise subsequently, were omitted to be considered by the respondents before issuing the impugned order of rejection.

14. As the impugned order does not state any other antecedents of the petitioner in order to suspect his conduct and character that he is tainted with criminality all along his life and has to be excluded from appointment. It has been simply rejected for the reason of acquittal due to hostile witnesses. The respondents could have considered the matter a bit exhaustive in view of the reasons stated above and in the light of the earlier judicial pronouncements made in this regard.

15. As the petitioner is not a habitual offender and even his involvement in one of the criminal case has arisen out of a family dispute between his friend or neighbour or sister, who have subsequently gone on compromise and even filed a petition to that effect, the petitioner's candidature could have been considered positively by exercising the best decision of the respondents without choosing to reject his candidature in a mechanical fashion.



16. In view of the above stated reasons this Writ Petition is allowed and order passed by the 3rd respondent in Na.Ka.No.M1/15396/2018 dated 30/10/2018 is hereby quashed and the respondents are directed to consider the petitioner's candidature to the post of Grade II Police Constable, positively. No costs. Connected miscellaneous petition is closed.

**18-03-2025**

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Director General of Police  
Myapore, Chennai -600 004. Chennai

2. The Chairman, Tamil Nadu  
Uniformed  
Services Recruitment Board, Chennai  
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**R.N.MANJULA J.**

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