



W.P.(MD)No.7422 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.7422 of 2019

Muniselvam

... Petitioner

Vs.

1.Tamil Nadu Uniformed Services Recruitment Board
Rep.by its Member Secretary,
Old Commissioner of Police Office Campus,
Egmore, Chennai 600 008.

2.Additional Director General of Police cum
Director General of Prison of Tamilnadu
Office of the Director General of Prisons of Tamilnadu
Egmore, Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the concerned records from the respondent was the order of the respondent dated 14.12.2018 in No.50528/EW1/2017-2 and consequently direct the respondent to consider the petitioner for appointment to the post of Grade II Constable/Grade II Jail Warden/Fire Man for the year 2018.

For Petitioner : Mr.R.Krishnan

For R1 & R2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.



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ORDER

WEB COPY Under assail is the order of the second respondent dated 14.12.2018.

2.It is the case of the petitioner that the first respondent Board issued advertisement during December 2017 inviting application for the posts of Grade II Constable/Grade II Jail Warders/Fireman. The petitioner applied to the same. The petitioner was participated in the physical efficiency test as per notification and he was cleared the same. Thereafter, he was called for medical test before the Medical Board, Viruthunagar on 29.10.2018 and the same was also cleared by him. When he was awaiting for orders for appointment, he had received the order impugned issued by the second respondent dated 14.12.2018, wherein, it has been stated that the petitioner was involved in Cr.No.25 of 2014 for the offences under Sections 294(b), 323, 324, 506(ii) IPC and in Crime No.283 of 2015 for the offences under Sections 147, 294(b), 323, 506(1) IPC. The petitioner has been acquitted from the above said two cases, vide judgments dated 03.06.2016 in STC.No.113 of 2016 and 02.12.2014 in C.C.No.30 of 2014. Therefore, the order passed by the second respondent is illegal and liable to be set aside. Hence, the writ petition.

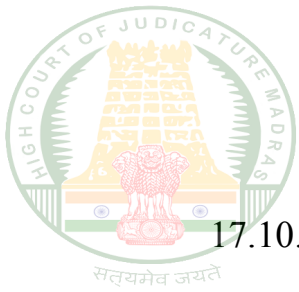


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3.The learned counsel appearing for the petitioner would submit that the second respondent had passed the order impugned without notice or hearing and therefore, it is illegal. He would further submit that at the time of submitting application, he has mentioned the criminal cases, since he has been acquitted in the said cases. To strengthen his contention, he has relied upon the decision of this Court in W.P.No. 32421 of 2017 dated 09.01.2020 to show that since the prosecution failed to prove the case beyond all reasonable doubt, the petitioner was acquitted on benefit of doubt and the petitioner has not involved in any serious offences.

4.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner has cleared the physical test and on verification of his antecedents, pursuant to the direction issued by the Higher Authorities, it was found that the petitioner was involved in Cr.No.25 of 2014 for the offences under Sections 294(b), 323, 324, 506(ii) IPC and in Crime No.283 of 2015 for the offences under Sections 147, 294(b), 323, 506(1) IPC. He would also rely on the Government Order issued in G.O.Ms.No.1410, Home (Prl-II) Department dated



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17.10.2008 to put forth his contention that a person, who is acquitted or discharged on benefit of doubt or due to the fact that the complainant turned hostile, shall be treated as a person involved in a criminal case. Therefore, he would vehemently contend that the petitioner is not entitled for any relief in this writ petition. To strengthen his contention, he has relied upon the decision of this Court in W.P.No.27639 of 2008 dated 17.08.2020. The learned Additional Government Pleader draw attention of this Court to the paragraph Nos.6 & 7 of the counter affidavit, which reads as follows:-

6) It is humbly submitted that the petitioner has not suppressed of involvement in criminal case at the time of filling up of police verification roll. In Avtar Sing Vs. Union of India and others, reported in (2016) 8 SCC 471, the Hon'ble Supreme Court of India has considered in detail as to the circumstances under which the stringent action could be taken and to what extent the employer can exercise its discretion. The relevant portion is here enumerated as follows:-

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

7) It is humbly submitted that the petitioner has involved in a criminal case and thereby he would not fit into



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a disciplined force where every member is expected to be honestly and sincerely report the information coming to their knowledge, in the public interest. Further the members of this Department are entrusted with an important responsibility of upholding the rule of law, maintenance of prison security, prevention of crime etc. Hence, considering his bad antecedents, he could not be appointed to the post of Grade II Warder.

5.This court considered the submissions made on either side and perused the materials on record.

6.It is seen from the impugned order that during enquiry, it came to light that the petitioner was involved in Cr.No.25 of 2014 for the offences under Sections 294(b), 323, 324, 506(ii) IPC and in Crime No. 283 of 2015 for the offences under Sections 147, 294(b), 323, 506(1) IPC. Further, it is stated in the order impugned as per Rule 6(f) of the Tamil Nadu Jail Subordinate Service Rules, one should not be involved in any criminal case. It is pertinent to state that in a case “where the employee has made declaration truthfully of a concluded criminal case, it is well within the hands of the employer to consider the candidature of the employee”.



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7.In the instant case, the selection process was already completed in the year 2018 itself. Hence, the question of considering petitioner's request for appointment to the post of Grade II Constable/Grade II Jail Warden/Fire Man would not arise. There is no merit in this writ petition and the same is liable to be dismissed.

8.In the result, this writ petition is dismissed. No costs.

NCC : Yes / No

14.02.2025

Index : Yes / No

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M.JOTHIRAMAN, J.

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