



W.P(MD)No.16465 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on:10.10.2025

Pronounced on: 17.10.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP(MD)No.16465 of 2019

S.Senthoorapandi

... Petitioner

Vs.

1.The Tamil Nadu Uniformed Services,
Recruitment Board,
Rep by its Vice Chairman
Having Office at Old Commissioner of
Police Office Campus,
Pantheon, Egmore,
Chennai-600 008.

2.The Director General of Police,(Law and Order)
O/o.Director General of Police,
Beach Road,
Chennai.

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

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India,
praying to issue a Writ of Certiorarified Mandamus, to call for the records on
the file of the first respondent vide proceedings C.No.D2/5454/2018 dated
24.04.2019 and quash the same as illegal as devoid of merits and direct the



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first respondent to consider the petitioner candidature ship for the post of Grade II Police Constable and 1st preferential post jail warder based on merits in the selection process of the 1st respondent as per the common recruitment notification No.217 of 2017.

For Petitioners : Mr.Rajakarthikeyan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
assisted by Mr.J.Ashok, AGP

ORDER

The present writ petition has been filed challenging the impugned order dated 24.04.2019 in and by which, the petitioner's representation to consider him according to his preference was rejected.

2.The brief facts which are necessary for the disposal of the present writ petition is that, the petitioner has participated in the recruitment process as per common recruitment notification No.217/2017 for the post of Police Constable Grade-II, Jail Warder Grade-II and Fireman. The petitioner has given preference for his appointment in the order of Grade-II police, Jail Warder and Fireman. Though the petitioner has successfully completed his examination and came within the zone of consideration, his candidature was rejected as per the Rule 13(b) and (e) of Tamil Nadu Police Subordinate Service Rules on account of involvement of criminal case in Crime No.87 of



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2012. Thereafter, based upon the direction of this Court in W.P(MD)No. 24814 of 2018, the respondent disposed the petitioner's representation rejecting his claim for Grade-II Police and also to his next preference of jail warder post. This rejection order is impugned in the present writ petition.

3.Heard Mr.Rajakarthikeyan, learned counsel appearing for the petitioner and Mr.Veera Kathiravan, learned Additional Advocate General, assisted by Mr.J.Ashok, learned Additional Government Pleader for the respondents.

4.The learned counsel appearing for the petitioner would submit that though the petitioner involved in a criminal case, the same was disclosed while applying the post, and that even on the date of his application, he was acquitted from the criminal case and such acquittal is a honourable acquittal. Therefore, the rejection of his candidature by the respondent on the above ground is contrary to the settled legal principles and impinge upon his right to life. His second limb of argument is that even if the petitioner is not eligible for the post of Grade-II Constable in view of Rule 13(b)&(e) of the Tamil Nadu Police Subordinate Service Rules, he is eligible to be considered for the second preference viz, for the Jail warder Post, since as on the date of recruitment notification and on the date of recruitment, there was no similar



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rule like Rule 13(b) & (e) of the Tamil Nadu Police Subordinate Service Rules, in the prison department service rule. Hence, his non consideration for Jail Warder Post by relying upon the provision of the Tamil Nadu Police Subordinate Service Rule, is contrary to the settled legal principles. Hence, he prays to interfere with the same.

5.Per contra, the learned Additional Advocate General appearing for the State would contend that the petitioner's candidature for the selection of Grade-II Constable was rejected on account of his involvement in criminal case. It is his further submission that once the petitioner candidature is rejected in his first preference, he would loose his chance to be considered even for the second preference. It is the further submission of the learned Additional Advocate General that though this Court has granted relief to the similarly placed persons for consideration of second preference, such relief was given based upon the concession given by the Government. Therefore, strenuously contended that the above judgment has no application for the present case.

6.It is his further submission that, the judgment of this Court and the Hon'ble Supreme Court time and again has reiterated that the suitability of an employee cannot be second guessed by the Court while exercising the



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Judicial review as the employer has an element of latitude or choice, and he would further contend that when there is a specific provision under Rule 13(b)& (e) which prescribes no person to be recruited even if he is acquitted, such person has no right to claim his appointment as a matter of right and further, the learned Additional Advocate General would submit that when the petitioner's candidature was rejected in his first preference post the question of considering him for second preference post, does not arise. Hence, he prays to dismiss the writ petition.

7.I have given my anxious consideration to the submissions made in either side.

8.Before we delve into the merits of the case, it is appropriate to trace the settled legal principles in regard to the appointment of a Police Constable. The Full Bench of this Court in ***Manikandan and others vs. The Chairman, Tamil Nadu Uniformed Services, Recruitment Board, Chennai***, reported ***(2008) 2 CTC 97***, has upheld the Rule 13 of the Tamil Nadu Subordinate Police Service Rule, and has further held that if the applicant failed to disclose the involvement of the criminal case at the earliest point of time, his letter disclosure cannot were such material irregularity.



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9.After the Manikandan's case(cited supra), the larger Bench of this Court consisting of 5 Hon'ble Judges in ***J.Alex Ponseelan vs. The Director General of Police, Tamil Nadu, Chennai***, reported in ***2014(2) CTC 337***, upheld Full Bench decision in Manikandan's case(cited supra) as the judgment of Manikandan case was confirmed by the Supreme Court by dismissing the Special Leave Petition before the Hon'ble Supreme Court, as a concomitant the order of the Full Bench got merged with the order of the Hon'ble Supreme Court. Further, the larger Bench has affirmed and reiterated the Full Bench decision in respect of the intra-vires of the police Rule.

10.The Hon'ble Supreme Court in ***Avtar Singh vs. Union of India and Others***, reported in ***2018(8) SCC 471(3J)***, has held that furnishing of wrong and incorrect information will be construed as disqualification. In yet another judgment of ***Union Territory, Chandigarh Administration and Others vs. Pradeep Kumar and Another***, reported in ***2018(1) SCC 797(2.J)***, has held that the acquittal is not conclusive criteria to assess the suitability of candidate unless it is honourable acquittal, and further held that the employer has got liberty to go into the issue of suitability.

11.In the judgment in ***Commissioner of Police vs. Rjkumar*** reported in ***2021(8) SCC 347(2J)***, the Hon'ble Supreme Court has held that the Court



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in exercise of Judicial review cannot second guess the suitability of candidate. It further held that, in the absence of malice or non application of mind or illegality, intense scrutiny to adjudge suitability of candidate, renders Court's decision suspect to charge of trespass into executive power of determining the suitability of candidate. It further held that, the judicial review is permissible to ensure that those norms are fair and reasonable and are applied fairly in non-discriminatory manner.

12.The Hon'ble Division Bench of this Court in an un reported judgment ***P.S.Selva Vinoth vs. The Director General of Police, Tamil Nadu Police Head Quarters, Chennai***, an held in ***W.A.No.636 of 2022*** vide order dated 30.06.2022, has reiterated that the nondisclosure of the information about the pending criminal case is fatal.

13.In the recent judgment, the Hon'ble Supreme Court in ***Satish Chandra Yadav vs. Union of India and Others***, reported in ***2023(7)SCC 536***, has held that in the assessment of suitability of candidates the Court has to exercise his discretionary power sparingly in (i)Exceptional and special circumstances; (ii)Where substantial and grave injustice has been occasioned; and (iii)Where case presents features of sufficient gravity warranting interference. It further held the discretionary decision of the



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administrative authority can only be reviewed by the Court on a limited ground, such as bad faith of decision makers, exercise of discretion for improper purpose, application of irrelevant considerations, and unreasonableness. It has further cautioned that the intention of legislature in conferring discretionary powers on administrative authorities should not be lightly interfered with. The Hon'ble Supreme Court, after tracing various precedents, have ultimately summarized the gist of the principles in Para No. 93. For ready reference, the same is extracted hereunder:

“93.In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:

93.1.Each case should be scrutinised thoroughly by the public employer concerned, through its designated officials—more so, in the case of recruitment for the police force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security. [See Raj Kumar]

93.2.Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate



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concerned is suitable and fit for appointment to the post.

93.3.The suppression of material information and making a false statement in the verification Form relating to arrest, prosecution, conviction etc., has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.

93.4.The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided.

93.5.The Court should inquire whether the Authority concerned whose action is being challenged acted mala fide.

93.6.Is there any element of bias in the decision of the Authority?

93.7.Whether the procedure of inquiry adopted by the Authority concerned was fair and reasonable?"

14.It is also relevant to refer yet another judgment of the Hon'ble Supreme Court in ***State of Madhya Pradesh and Others vs. Bhupendra Yadav***, reported in ***2023 SCC online SC1181***, wherein the Hon'ble Supreme Court has again reiterated the settled principles that, when a person ultimately acquitted on the basis of benefit of doubt, he become unsuitable for appointment to the post of Constable. From the above all precedents, we



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could safely assume that the Court are consistent to the effect that the mere acquittal of a person from criminal case will not give any unfettered right to seek an appointment as a matter of right.

15.In the case in hand, admittedly, the petitioner was involved in a criminal case in Crime No.13 of 2018 Peraiyur Police Station. Subsequently, the same was committed to the Additional District Judge, Paramakudi, and was tried as a Sessions Case in S.C.No.68 of 2015. Wherein the petitioner was charged under Sections 294(b), 323 IPC r/w Section 5 of Tamil Nadu Property (Prevention of Damage and Loss) Act. The learned counsel for the petitioner would invite the attention of this Court about the observation made by the Sessions Court, and would submit that the harmonious reading of the above judgment would make it clear that the order of acquittal is honourable one.

16.While looking at the above criminal Court judgment with forensic insight, this Court is of the view that upon the reasons cited in the said judgment, the petitioner was acquitted by giving benefit of doubt. Therefore, from the reasoning assigned by the Sessions Court judgment in S.C.No.68 of 2015 dated 12.01.2017, this Court did not find any vestige for a honourable acquittal. Therefore, as rightly contended by the learned Additional Advocate



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General, the involvement of the criminal case, though has been rightly disclosed, since the same violates Rule 13 of Special Rules of TNPSS, the petitioner cannot seek a claim for employment as a matter of right.

17.At this juncture, it is relevant to refer that the Hon'ble Supreme Court and this Court time and again held that the employer is the ultimate person to decide the suitability of the candidate. In the case in hand, the reasoning assigned by recruiting authority for rejection of the candidature for the selection of his first preference in Police Service, cannot be termed as perverse or tainted with malafide. As stated by the Hon'ble Supreme Court, when the respondent has decided that the petitioner is not suitable for Grade-II Constable as per the Tamil Nadu Police Subordinate Services Rules, this Court has no power to second guess such decision. Therefore, the prayer of the petitioner to appoint him in Grade-II constable is liable to be rejected.

18.The second limb of the submission of the petitioner is that, if in any case, the petitioner is not eligible to be considered for the post of Grade-II Constable, he has to be considered for the post of Jail Warder viz., his second preference. Before we delve into the this aspect, it is appropriate to extract Rule 13 of Special Rules of TNPSS is hereunder:

“13.Qualification:



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No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority.

(a)that he is of sound health, active habits and free from any bodily defect or infirmity upfilling him for such service.

(b)that his character and antecedents are such as to qualify him for such service

(c)that such person does not have more than one wife living of if such person is a Woman, that she is not married to any person who has a wife living, and

(d)that he does not have knock knees or bow legs or flat feet,

(e)that he has not involved in any criminal case before police verification.”

19. Admittedly, such Rule was not in existence in the prison department, as on the date of recruitment notification, which factum was not seriously disputed by the learned Additional Advocate General. In fact similar amendment was made in the Tamil Nadu Fire Subordinate Service Rule only on 14.09.2021 vide G.O.Ms.No.368. In view of such position, it is the contention of the petitioner that the involvement of a criminal case though may a disqualification in the police service, in the absence of such rule in the prison department, he ought to have been considered for such



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post, as the petitioner has secured the required cut off mark and was also acquitted from the criminal case.

20. At this juncture, it is relevant to refer to cut off marks for the MBC Community under PSTM preference for all the three post, are as follows:

Category	Cut off marks of MBC Community(PSTM)
AR	70
Jail Warder	70
Fireman	74

It is an admitted facts that the petitioner comes within the MBC community under PSTM category. The cut off mark for Grade-II constable and jail warder is 70%. Now that the petitioner is not qualified for the post of Grade-II constable. In that background now let us see, whether the rejection of the petitioner for consideration of his second preference is in accordance with relevant rules. While looking at the rejection order, the only contention put-forth by the respondent is that, since the petitioner was disqualified in his first preference post, no occasion has arisen for the authority to consider him for his second preference. Though the respondent raised such a contention, while looking at the conditions of the combined recruitment notification class XI (c) & (d), does not state so. For ready reference, class XI (c) & (d) is extracted hereunder:



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“(c)The candidates must select the order of post preference for AR/Jail Warder/ Fireman as per his choice in the application from without fail. The TNUSRB will select the candidate as per the order of the post preference based on the marks secured by the candidate.

(d)If a candidate even if he had scored marks eligible for other posts, he will be selected to the posts only according to the order of the post preference opted by him. Any request with regard to change of post preference at a later stage will not be considered fro any reason whatsoever.”

21.At this juncture, it is appropriate to refer the judgment of this Court in ***W.P(MD)No.12895 of 2018(The Chairman, Tamil Nadu Uniformed Services Recruitment Board, Chennai-600 002 vs. K.Chermaperumal)***, wherein the learned single Judge in a similar circumstances has observed as follows:

“10.Since, admittedly, the petitioner has scored higher marks for consideration to the post of Fire Man and there is no scope under the relevant rule to reject his candidature, merely because he was involved in a criminal case, which also later compounded or acquitted by Courts of law, by way of compromise, this Court is inclined to pass the following order:

“Since the Director General of Police(Fireman), Tamil Nadu, who is a necessary party and to whom a direction is going to be issued by this Court, is not a party herein, the said



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Director General of Police-(Fireman) Tamil Nadu is impleaded as one of the party respondent, suo motu, by this Court and accordingly, he he is arrayed as fourth respondent in this writ petition.

That the first respondent is directed to pass necessary orders with regard to the selection of the petitioner for the post of Fireman at Tamil Nadu Fire Subordinate Service. On receipt of such communication from the first respondent, the fourth respondent is directed to pass necessary orders, giving necessary appointment orders to the petitioner as Fireman and the aforesaid exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.”

22.This order was subsequently challenged by way of writ appeal in W.A(MD)No.437 of 2019 wherein the Hon'ble Division Bench has confirmed the order of the learned single Judge. After the dismissal of the said writ appeal, clarification petition was also filed before the learned single Judge in W.M.P(MD)No.17125 of 2019 dated 14th September 2021, wherein it was contended that the above order will not be applicable to the other cases, as the said order was passed based upon a concession given by the learned Additional Advocate General. But the said contention was outrightly rejected by the learned single Judge and has observed as follows:

“10.In this context, it is to be noted that, the learned Additional Advocate General has not given any blanket



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concession for considering the candidature of the writ petitioner. In fact, he, after having gone through the relevant rules, that is Tamil Nadu Police Subordinate Service Rules as well as Tamil Nadu Fire Service Rules, has reiterated the legal position as an Officer of the Court in order to assist the Court that the writ petitioner though shall be disqualified under the Tamil Nadu Police Subordinate Service, but the same time, since there is no such Rule on par with rule 14(b) of Tamil Nadu Police Subordinate Service Rules available in Tamil Nadu Fire Service Rules, his candidature might not be disqualified and therefore there could be no impediment for considering his candidature under the said Rule and accordingly, since he has obtained higher marks that is 65, whereas the cut-off mark for the post of Fireman in such category was only 64, he can be considered for selection to the post of Fireman.

11.This submission made by then learned Additional Advocate General, only reiterating the rule position, has never been taken as blanket concession of the Additional Advocate General by this Court.

12.May be before the Division bench of this Court, when intra-Court appeal was heard, it was one of the prime point canvassed by the learned counsel appearing for the writ petitioner that, such a stand has been taken by the learned Additional Advocate General taking into account the rule position. Considering the same, the Division bench might have given the reason for rejecting the intra-Court appeal on such prime ground alone. Therefore, it cannot be construed that the



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writ Court allowed the writ petition only based on any alleged concession given by then learned Additional Advocate General, but based on the rule position as well as merits of the case.

13.In order to reiterate this position, para 10 of the writ Court Order is extracted hereunder, which reads thus:

“10.Since, admittedly, the petitioner has scored higher marks for consideration to the post of Fire Man and there is no scope under the relevant rule to reject his candidature, merely because he was involved in a criminal case, which also later compounded or acquitted by Courts of law, by way of compromise, this Court is inclined to pass the following order:

“Since the Director General of Police (Firemen), Tamil Nadu, who is a necessary party and to whom a direction is going to be issued by this Court, is not a party herein, the said Director General of Police- (Fireman), Tamil Nadu is impleaded as one of the party respondent, suo motu, by this Court and accordingly, he is arrayed as fourth respondent in this writ petition.

that the first respondent is directed to pass necessary orders with regard to the selection of the petitioner for the post of Fireman at Tamil Nadu Fire Subordinate Service. On receipt of such communication from the first respondent, the fourth respondent is directed to pass necessary orders, giving necessary appointment orders to the petitioner as Fireman and the



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aforesaid

exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.”

The writ Court has made it clear that, since the writ petitioner has secured higher marks for consideration to the post of Fireman and there is no scope under the relevant rules, that is rules governing the Tamil Nadu Fire Service, to reject his candidature, merely because he has involved in criminal case, which was later compounded by Court of law by way of compromise, the writ Court was inclined to pass order allowing the writ petition.

14. Therefore, the writ Court, after having taken note of the rule position as well as the merit of writ petitioner, who admittedly secured higher marks, allowed the writ petition as no such disqualification is available in the relevant rule governing the Tamil Nadu Fire Service. Therefore, at no stretch of imagination, it can be stated that the writ Court has allowed the writ petition only on the basis of the concession given by then learned Additional Advocate General and the fact remains that the then learned Additional Advocate General has not given any blanket concession, he has only assisted the Court by giving his views on the rule position, which is apparent.”

23. Therefore, according to the above judgment, which had reached its finality, it is amply clear that, when the candidates is not qualified to be appointed in his first preference post of the common recruitment process, the candidate has unfettered right to be considered for the second preference, in



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accordance with respective service rule, but subject to acquiring the required cut off marks. In the case in hand, the respondents had rejected his candidature even for the second preference, only on the sole ground, that he was not qualified for his first preference, which course of action is apparently contradictory to the order of the learned single Judge in W.P.No. 12895 of 2018 in *Chermaperumal case(cited supra)*.

24. Therefore, this Court is of the firm view that the rejection of the petitioner though for the first preference post of Grade-II constable is in accordance with law, his non-consideration for his second preference for the Jailer post, is contrary to the ratio laid down in *Chermaperumal 's case(cited supra)*. Though the learned Additional Advocate General would contend that the *Chermaperumal's case*, was an order based upon the concession given by learned Additional Advocate General, such contention was outrightly reneged by this Court in a clarification petition. Therefore, this Court is of the firm view that the petitioner is entitled to be considered for his second preference of Jailer post according to the relevant service rules subject to the cut off marks. Therefore, this Court deems it appropriate to partly allow the writ petition to the extend to consider the petitioner for Jailer Post.



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25. In the result, this writ petition is partly allowed in line with the order passed in W.P.No.12895 of 2018 dated 27.07.2018, directing the first respondent to pass necessary orders with regard to the selection of the petitioner for the post of Jail warden of Tamil Nadu Prisons Service, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that suppose if all the vacancies of the Jailer post was filled up, the candidature of the petitioner shall be kept in waiting list, if such waiting list so far not lapsed, and if any of the selected or appointed candidates are relieved from the service by way of either resignation or in better option if any, and because of such relivement, if any vacancy arises, the petitioner's name shall be considered as a first choice for such appointment. Accordingly, the impugned order passed by the first respondent is quashed to the extend of nonconsideration of the petitioner of his second option of Jail warden post. No costs.

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Index : Yes/No

Neutral Citation : Yes/No

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To

- 1.The Tamil Nadu Uniformed Services,
Recruitment Board,
Rep by its Vice Chairman
Having Office at Old Commissioner of
Police Office Campus,
Pantheon, Egmore,
Chennai-600 008.
- 2.The Director General of Police,(Law and Order)
O/o.Director General of Police,
Beach Road,
Chennai.
- 3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.



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C.KUMARAPPAN, J.

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