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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.10.2025

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THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

Writ Petition No.17532 of 2019

and

W.M.P(MD)No.14017 of 2019

S.Pandithurai

... Petitioner

..Vs..

1.The member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Cop Office Campus, Pantheon Road,
Egmore,
Chennai600 008.

2.The Superintendent of Police,
Thanjavur District,
Thanjavr.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.A2/4600/208 dated 13.11.2018 and to quash the same and consequently directing the respondents to select and appoint the petitioner to the post of Grade-II Police Constable as per the selection conducted by the 1st respondent for the year 2017 – 18.

For Petitioner : Mr.K.Balavikram

For R1 : Mr.T.Amjad Khan
Government Advocate/Standing Counsel

For R2 : No appearance



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ORDER

The present Writ Petition has been filed challenging the proceedings of the second respondent dated 13.11.2018, in and by which, the petitioner denied his appointment for the post of Grade-II Police.

2.Heard Mr.K.Balavikram, learned counsel appearing for the petitioner and Mr. T.Amjadkhan, learned Standing Counsel appearing for the first respondent.

3.The learned counsel appearing for the petitioner would submit that he was a retired military man and in pursuance of the common recruitment by the Tamil Nadu Uniformed Service Recruitment Board, vide application dated 28.12.2017, he has applied for the post of Grade-II Constable. It is the specific submission of the petitioner that he was qualified to be appointed and he was successful in all his test and got cut-off mark for the post. But, his candidature was rejected on the ground of registration of FIR in his name. It is the further submission that the Judicial Magistrate Court subsequently acquitted the petitioner. However, in spite of such acquittal, the respondents, in a cryptic way,



denied the appointment on the ground that the witness examined in the criminal case turned hostile. The learned counsel further submit that the offence involved does not attract any moral turpitude. Hence, he prays to interfere with the impugned order.

4.The said contention was stoutly objected by the learned Additional Government Pleader and would contend that it is a prerogative of the employer to look into the antecedent of the candidate and according to the Police Service Rule 14(b)(iv), since the petitioner was acquitted by giving benefit of doubt and on the basis of the hostile witness, he became ineligible to be appointed in the Grade-II Constable post. The learned Additional Government Pleader further submit that the Hon'ble Supreme Court has consistently held that the judgment arrived at by appointing authority with regard to the suitability cannot be a second guessed. Hence, he would contend that in the place of Service Rule not permitting the persons those, who suffered a criminal case, the same cannot be interfered, while exercising the power of judicial review. Hence, he prays to dismiss the writ petition.



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5.I have given my anxious consideration of the submission made on either side.

6.While looking at the impugned order, it has been specifically stated that there was a criminal case registered against him in Crime No. 79 of 2018 for the offence under Sections 324 AND 506(ii) IPC. But the learned counsel for the petitioner would invite the attention of this Court that trial was conducted against him and he was acquitted from all charges by the learned Judicial Magistrate No.II, Thanjavur in C.C.No. 107 2018 by judgment dated 26.10.2018. But, the learned Additional Government Pleader would invite the attention of this Court that the witnesses those who were examined before the Trial Court, turned hostile. Therefore, according to the Service Rule 14(b)(iv), even if there is any acquittal based upon the evidence of hostile witnesses, the same is criteria to find out the suitability. In the case in hand, according to the rule, the petitioner is not suitable.

7.At this juncture, 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,*



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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 be such material irregularity.

8. After the Manikandan's case (cited supra), the larger Bench of this Court consisting of 5 Hon'ble Judges in **J. Alex Ponselan 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.

9. 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.

10. 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 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.

11. 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.

12. 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 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



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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 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



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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?"

13.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 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.

14.In view of the above settled legal principles, this Court is of the firm view that the appointing authority has already decided the suitability



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and there is also a Rule as to how the suitability to be assessed. The question of second guess against the judgment reached by the authority is contrary to the settled legal principles. Therefore, I do not find any merits in the present writ petition.

15. In view of the above, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

31.0.2025

Index::Yes/No

Ncc:Yes/No

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To

1. The member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Cop Office Campus, Pantheon Road,
Egmore,
Chennai 600 008.



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C.KUMARAPPAN,J.
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Order made in
W.P(MD)No.17532 of 2019

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