
(2014) 06 MAD CK 0100

In the Madras High Court

Case No : W.P. (MD) No. 6431 of 2010 and M.P. No. 1 of 2010

A. Reegan

APPELLANT

Vs

The Director General of Police

RESPONDENT

Date of Decision : 03-06-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 294(b), 323

Citation : (2014) 06 MAD CK 0100

Hon'ble Judges : R. Mahadevan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R. Mahadevan, J.—Challenge in this Writ Petition is to the order, dated 27.11.2009, whereby and whereunder, the claim of the petitioner for selection and appointment to the post of Grade II Constable was rejected and for a direction to the respondents to appoint the petitioner as Grade II Police Constable.

2. The case of the petitioner is that the second respondent made advertisement, inviting applications to the post of Grade II Police Constable. The petitioner applied for the same and wrote the written examination, on 24.12.2008 and attended physical efficiency test, on 07.10.2008. Though the petitioner came out successful in both the tests, he was not selected. The first respondent, by the impugned order, dated 27.11.2009, rejected the claim of the petitioner on the ground that he was involved in a Criminal Case in Crime No. 589 of 2007, on the file of the Inspector of Police, Thanjavur South Police Station, Thanjavur, registered under Sections 294(b) and 323 of the Indian Penal Code.

3. The learned counsel appearing for the petitioner submits that the learned Judicial Magistrate, No. I, Thanjavur, by Judgment, dated 07.07.2008, made in C.C. No. 6 of 2008, acquitted the petitioner, giving benefit of doubt, which was challenged by the petitioner by filing CrI. RC. [MD]. No. 51 of 2013. This Court,

by order, dated 29.01.2013, allowed the said Criminal Revision Case and modified the remarks of acquittal, giving benefit of doubt and ordered that the acquittal of the petitioner shall be read as "honourable acquittal", and therefore, the petitioner is entitled to be considered for selection and appointment to the post of Grade II Police Constable. The learned counsel relied upon an order of this Court in V. Balaji Vs. The Director General of Police, reported in 2011 (2) CWC 834 and sought to allow the Writ Petition.

4. The learned Government Advocate appearing for the respondents, on the other hand, submits that the petitioner was involved in a Criminal Case in Crime No. 589 of 2007, on the file of the Inspector of Police, Thanjavur South Police Station, Thanjavur, registered under Sections 294(b) and 323 of the Indian Penal Code. In the said Criminal Case, the petitioner was acquitted by the learned Judicial Magistrate No. I, Thanjavur, by Judgment dated 07.07.2008 made in C.C. No. 6 of 2008, not on merits, but giving benefit of doubt. In the year 2007, the petitioner took part in the selection process to the post of Grade II Police Constable and during the police verification, the antecedents of the petitioner viz., involvement in the said criminal case and his acquittal not on merits, but giving benefit of doubt were noticed and based on the same, his candidature was rejected. Thus, the claim of the petitioner was rightly rejected by the first respondent, which does not warrant any interference at the hands of this Court.

5. I have considered the above submissions and perused the records carefully.

6. It is an admitted case that the petitioner was involved in criminal case, as referred to above and he was acquitted by Judgment, dated 07.07.2008, by the learned Judicial Magistrate No. I, Thanjavur, giving benefit of doubt. The police verification for selection and appointment to the post of Grade II Police Constable was made in the year 2007 and on the said date, the acquittal of the petitioner was not on merits and the modification was ordered only, on 29.01.2013. Thus, the said order passed by this Court will not come to the rescue of the petitioner.

7. A Full Bench of this Court in Manikandan and Others Vs. The Chairman, Tamil Nadu Uniformed Services Recruitment Board, , considered the very issue regarding the scope of Rule 14(b) of the Tamil Nadu Police Subordinate Service [Discipline and Appeal] Rules, 1955, including Explanations I and II and answered the reference thus:-

(a). that by virtue of Explanation I to clause (iv) of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, a person acquitted on benefit of doubt or discharged in a criminal case, can still be considered as disqualified for selection to the police service of the State and that the same cannot be termed as illegal or unjustified; and

(b). that the failure of a person to disclose in the application form, either his involvement in a criminal case or the pendency of a criminal case against him, would entitle the appointing authority to reject his application on the ground of concealment of a material fact, irrespective of the ultimate outcome of the

criminal case.

Explanation II: A person involved in criminal case at the time of Police Verification and the case yet to be disposed of and subsequently ended in honourable acquittal or treated as mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment only by participating in the next recruitment.

8. The validity of the Judgment in Manikandan's case has been upheld by a Larger Bench of this Court in J. Alex Ponseelan Vs. The Director General of Police, The Director, Tamil Nadu Uniformed Services Recruitment Board and The Superintendent of Police, and held as follows:-

(i) The decision rendered by the Full Bench of this Court in Manikandan's case, reported in 2008 (2) CTC 97, is a good law.

(ii) Rule 14(b)(iv) together with Explanations 1 and 2 of the Tamil Nadu Special Police Subordinate Service Rules is intra vires of the Constitution, as has already been held by the Full Bench in Manikandan's case and by the learned Single Judge in V.Veeramani's case.

9. The Hon'ble Supreme Court in the recent decision in SLP (Civil). No. 38886 of 2012, dated 02.07.2013, [Commissioner of Police, New Delhi and Another Vs. Mehar Singh,] considered the issue regarding the selection of Police Constables and in Paragraph No. 28, it is held thus:-

28. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent time, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by the Delhi Police to ensure that persons, who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of trust reposed in it and must treat all candidates with even hand.

10. Applying the said Judgments to the facts of the present case, particularly,

taking into consideration the fact that the acquittal of the petitioner by the learned Judicial Magistrate No. I, Thanjavur, on 07.07.2008, was not on merits, but giving benefit of doubt, the respondents are justified in contending that the petitioner is not a fit person to be appointed in Uniformed Services.

11. In the result, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.