

(2013) 07 MAD CK 0334

In the Madras High Court

Case No : W.A. (MD) No. 272 of 2013 and M.P. No. 1 of 2013

The Director General of Police

APPELLANT

Vs

J. Vijayakumar

RESPONDENT

Date of Decision : 10-07-2013

Acts Referred:

Citation : (2013) 5 CTC 840

Hon'ble Judges : P. Devadass, J;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : T.S. Mohammad Mohideen, Additional Government Pleader, for the Appellant; D. Sivaraman for G. Chandrasekhar, for the Respondent

Judgement

N. Paul Vasanthakumar, J.—The Writ Appeal is directed against the Order of the learned Single Judge dated 25.4.2012 made in W.P. (MD) No. 4258 of 2011, allowing the Writ Petition filed by the Respondent herein seeking appointment to the post of Bandman Constable, for the recruitment year 2007. The learned Single Judge, taking note of the Judgment dated 18.10.2002 made in S.C. No. 68 of 2002 passed by the learned Additional Sessions Judge, [Fast Track Court No. I], Madurai, acquitting the Respondent giving benefit of doubt, allowed the said Writ Petition, quashing the Order of the Appellant dated 9.12.2009.

2. The learned Additional Government Pleader appearing for the Appellant contended that the Respondent was involved in a Criminal Case in Crime No. 1337 of 1996, on the file of the Inspector of Police, B-10, Thilagar Thidal Police Station, Madurai, registered under Sections 147 & 148 of the Indian Penal Code r/w 3(1) of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. In the said Criminal case, the Respondent was acquitted by the learned Additional Sessions Judge, by Judgment dated 18.10.2002 made in S.C. No. 68 of 2002, not on merits, but giving benefit of doubt. In the year 2007, the Respondent took part in the selection process to the post of Bandman Constable and during the Police Verification, the antecedents of the Respondent, 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.

3. The contention of the learned Counsel appearing for the Respondent is that the acquittal of the Respondent, giving benefit of doubt was challenged by him by filing CrI. R.C. (MD) No. 289 of 2010. The learned Single Judge, by Order dated 21.4.2010, allowed the said Criminal Revision Case and expunged the remarks of acquittal passed giving benefit of doubt and ordered that the acquittal of the Respondent shall be read as "honourable acquittal".

4. Relying on the said Order of the learned Single Judge dated 21.4.2010, the learned Counsel appearing for the Respondent contends that as the Criminal Revision Case filed by the Respondent was allowed by the learned Single Judge on 21.4.2010, giving honourable acquittal, the Order dated 21.4.2010 should be read from the date of the Judgment of the learned Additional Sessions Judge dated 18.10.2002, and therefore, relying on Explanations I & II of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, the Appellant cannot debar the Respondent from getting selection as Bandman Constable.

5. We have considered the above rival submissions and perused the records carefully.

6. It is an admitted case that the Respondent was involved in Criminal case, as referred to above and he was acquitted by Judgment dated 18.10.2002 by the learned Additional Sessions Judge, giving benefit of doubt. The Police verification for selection and appointment to the post of Bandman Constable was made in the year 2007 and on the said date, the acquittal of the Respondent was not on merits and the modification was ordered only on 21.4.2010. Thus, the said Order passed by the learned Single Judge will not come to the rescue of the Respondent.

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 Special Police Subordinate Service Rules, including Explanations I & 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.

8. The Hon'ble Supreme Court in the recent decision in Commissioner of Police,

New Delhi and another v. Mehar Singh, SLP(C) No. 38886 of 2012, dated 2.7.2013, 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.

Applying the said Judgments to the facts of the present case, particularly, taking into consideration the fact that the acquittal of the Respondent by the Additional Sessions Judge, on 18.10.2002, was not on merits, but giving benefit of doubt, the Appellant is justified in contending that the Respondent is not a fit person to be appointed in Uniformed Services. Hence, the Order of the learned Single Judge dated 25.4.2012 made in W.P. (MD) No. 4258 of 2011 is set aside and the Writ Appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.