

W.A(MD)No.831 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 08.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

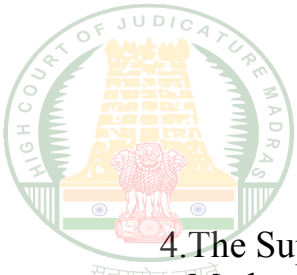
W.A(MD)No.831 of 2022

S.Saravanan

... Appellant /
Petitioner

Vs.

- 1.The Director General of Police,
Office of the Director General of Police,
Radhakrishnan Salai,
Mylapore,
Chennai.
- 2.The Chairman,
The Tamil Nadu Uniformed Service
Recruitment Board,
Pantheon Road,
Egmore,
Chennai – 8.
- 3.The Member Secretary,
The Tamil Nadu Uniformed Service
Recruitment Board,
Pantheon Road,
Egmore,
Chennai – 600 008.



W.A(MD)No.831 of 2022

4. The Superintendent of Police,
Madurai District,
Madurai.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 22.03.2023 passed in W.P(MD)No.11803 of 2021 on the file of this Court and allow the above Writ Appeal.

For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard both sides.

2.The Tamil Nadu Uniformed Service Recruitment Board, Chennai issued notification calling for applications to fill up the posts of Police Constable Grade II, Jail Warden and Fireman Grade II – 2019. The petitioner submitted his application in response thereto. The written examination was conducted on 25.08.2019. The petitioner passed in the said examination. He also successfully cleared the physical efficiency test. The cut off marks for backward class community to which the petitioner belonged was fixed at 69.

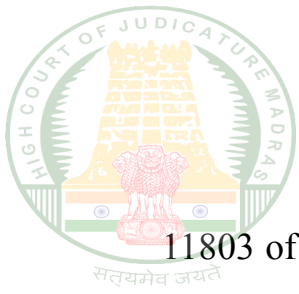


W.A(MD)No.831 of 2022

The petitioner secured 71 marks. The provisional selection list was published

WEB COPY on 04.02.2020. The petitioner's name was found therein. But vide order dated 23.05.2020, the Superintendent of Police, Madurai District declined to appoint the petitioner as Police Constable Grade II by invoking Rule 14(b) of TNPSS Rules. According to the fourth respondent, Crime No.1046 of 2012 was registered against the petitioner on the file of C4 Thilagar Thidal (Crime) Police Station, Madurai City under Section 109 of Cr.P.C and that the petitioner was also produced before the jurisdictional Revenue Divisional Officer in that regard. The petitioner however did not disclose his involvement in the said case while filling up the application form. According to the fourth respondent, in view of his involvement in the said criminal case and on account of suppression of the same, the petitioner rendered himself disqualified for selection as Police Constable Grade II.

3.Challenging the said memorandum, the petitioner filed W.P(MD)No.6543 of 2020. The writ petition was allowed on 09.04.2021 and the order dated 23.05.2020 was set aside and the fourth respondent was directed to revisit the issue. But the fourth respondent reiterated the earlier stand and once again held that the petitioner was disqualified via RC.No.B1/4339/2020-2. Questioning the said order dated 28.06.2021, the petitioner filed W.P(MD)No.



W.A(MD)No.831 of 2022

11803 of 2021. The learned single Judge dismissed the writ petition vide order

WEB COPY dated 22.03.2022 on the ground that the petitioner had deliberately suppressed the fact that he was involved in proceedings under Section 109 of Cr.P.C and had executed bond for good behaviour on 02.07.2012. Challenging the dismissal of the writ petition, this intra-court appeal has been filed.

4.The issue raised in this writ petition is no longer *res integra*. It is admitted that the petitioner was born on 01.08.1996. When he was involved in the proceedings under Section 109 of Cr.P.C, he was hardly 16 years old. Even if a juvenile has been involved in a criminal case, it cannot be put against him subsequently. Section 24 of the Juvenile Justice (Care and Protection of Children) Act, 2015 states that a child who has committed an offence and has been dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act shall not suffer disqualification if any attached to a conviction of an offence. The Hon'ble Division Bench of the Madras High Court vide order dated 01.03.2023 in ***Rev.Appln.No.17 of 2023 (The Superintendent of Police Vs S.Rajeshkumar)*** held that Rule 14(b)(ii) and (iv) of Tamil Nadu Special Police Sub ordinate service Rules cannot prevail over the Juvenile Justice (Care and Protection of Children) Act. The authorities failed to note that bond was obtained from the petitioner when he was juvenile.



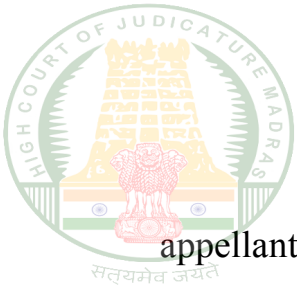
W.A(MD)No.831 of 2022

It could not have been raked up against the petitioner. Even records should not

WEB COPY have been maintained so as to cause prejudice to the juvenile.

5. There is yet another aspect in this matter. The petitioner was not involved in any criminal case as such. One of us (GRSJ) sitting singly had vide order dated 04.01.2018 in *W.P(MD)No.19985 of 2017 (R.Ajithkumar Vs The Chairman, TNUSRB & Another)* held that security proceedings under Section 107 of Cr.P.C cannot be construed as criminal cases and that though FIR is registered for initiating proceedings under Section 107 of Cr.P.C, the persons named in the FIR cannot be construed as accused. The very object of such proceedings is to prevent commission of offence. It was held therein that even if an applicant omits to mention the details of such proceedings, the same cannot be put against the applicant and that Rule 14(b)(ii) and (iv) of TNPSS Rules cannot be invoked in such cases. The said approach deserves to be applied in the present case also.

6. In this view of the matter, the order impugned in the Writ Appeal is set aside. W.P(MD)No.11803 of 2021 filed by the appellant stands allowed. The respondents are directed to appoint the appellant in the post of Police Constable Grade II and send him for training at the earliest opportunity. The



W.A(MD)No.831 of 2022

appellant's seniority will be reckoned on par with those selected through the

WEB COPY

2019 common recruitment notification. He will be entitled to monetary

benefits only from the date of his actual appointment.

7.This Writ Appeal is allowed accordingly. There shall be no order

as to costs.

[G.R.S., J.] [R.P., J.]

08.11.2024

NCC : Yes / No

Internet : Yes / No

Index : Yes / No

MGA



WEB COPY



W.A(MD)No.831 of 2022

G.R.SWAMINATHAN, J

and

R.POORNIMA, J.

MGA

W.A(MD)No.831 of 2022

08.11.2024