

WP(MD) NO. 30971 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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<i>Reserved on</i>	01.10.2026
<i>Pronounced on</i>	16.10.2026

CORAM:

THE HONOURABLE MR.JUSTICE RAJNISH PATHIYIL

WP(MD) NO. 30971 of 2024
{CNR: HCMD015406492024}



Case QR

AND

WMP(MD) NO. 26024 OF 2024

T. Sujin Raj

...Petitioner(s)

Vs

1. The Director General of Police,
Director General of Prisons and Correctional Services,
Whannels Road,
Egmore,
Chennai - 600 008.
2. The Member Secretary,
Tamilnadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore
Chennai - 600 008.
3. The Superintendent of Police
Nagerkovil,
Kanyakumari District.

...Respondent(s)



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For Petitioner(s):

Mr.Muthu Ganesa Pandian, for
Mr.K.Mahesh Raja

For Respondent(s):

Mr.P. Pethu Rajesh,
Additional Government Pleader

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records with related to the impugned order vide No. Na.Ka. No.A4/30529/2024 dated 04.12.2024 passed by the 3rd respondent and set aside the same as illegal, consequently direct the respondents to appoint the petitioner as Grade II Police Constable / Jail Warden.

ORDER

This writ petition has been filed seeking issuance of a ***Writ of Certiorarified Mandamus***, to set aside the impugned order vide Na.Ka. No.A4/30529/2024 dated 04.12.2024 passed by the 3rd respondent and consequently direct the respondents to appoint the petitioner as Grade II Police Constable / Jail Warden.

2. The petitioner is an ex-serviceman who, upon completing his military service, applied for a post in the Police Department, the recruitment being conducted by the second respondent, the Tamil Nadu Uniformed Services Recruitment Board. The petitioner contends in his affidavit that he joined the Indian Army on 20.12.2005 and retired on 31.12.2022 after completing 17 years of unblemished service. He is



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also a matriculate, having completed his secondary school education in Tamil Nadu in March 2002. It is contended by him that the respondents had issued a notification in the year 2023 inviting applications for appointment as Grade II Police Constables. Accordingly, he applied and completed the written examination, physical fitness test, endurance test and efficiency test. He was called for certificate verification, where he appeared and submitted all certificates, which were verified, and he was provisionally selected for the post.

3. It is averred in the affidavit filed in support of the writ petition that there was certain matrimonial discord between his wife and him in the year 2016, due to which she had preferred a complaint before the All Women Police Station, Kulithurai, in Kanyakumari District. An FIR in Crime No. 16 of 2016 was registered on 01.07.2016 under Sections 294(b), 406, 498A, 506 (1) IPC read with Sections 3, 4, 6 of the Dowry Prohibition Act, 1961. The petitioner's case is that after the conclusion of the investigation, action was dropped in the said FIR i.e., in Crime No. 16 of 2016 and a report was filed before the concerned Judicial Magistrate. He further submits that thereafter, due to the continuing matrimonial discord and since no sustainable remedy could be reached, both his wife and he agreed to file a petition seeking divorce by mutual consent. Thereafter, the Family Court also granted divorce by mutual consent in D.O.P.No. 326 / 2016. He had long forgotten about the criminal case that was registered, and subsequently closed, as it has been instituted solely on



account of a misunderstanding between the petitioner and his estranged wife during the subsistence of his marriage.

4. It is the further case of the petitioner that, while applying for the post of Grade-II Police Constable, he had set out the answer as “No” in the column requiring him to specify whether any criminal case had been filed against him. He submits that the application was submitted on 30.08.2023, while the case against him was registered on 01.07.2016 and dropped soon thereafter. He also submits that as on the date of application, there was no case pending against him, and the complaint that was filed against him had been closed, action having been dropped. It was never his intention to suppress any information, as the fact would in any event have come to light during police verification. Under the *bona fide* belief that he was not required to disclose cases where the complaint itself had been closed on account of action being dropped, and moreover because the complaint arose out of matrimonial discord the principal offence being under under Section 498A of IPC, he filled the form accordingly.

5. The learned Additional Government Pleader appearing for the respondents referred to the counter filed by the third respondent and submitted that it was the bounden duty of the petitioner to have furnished true facts in his application, and he could not have suppressed the fact that an FIR was registered against him,



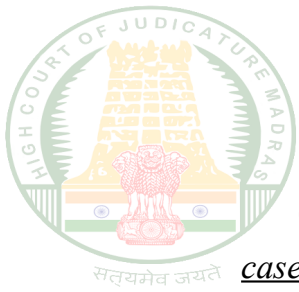
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notwithstanding that it was lodged by his estranged wife under Section 498A IPC and other provisions. It was imperative that he should have disclosed the said fact, more so when applying for the post of a Grade-II Police Constable in the Police Department. The very purpose of providing such a declaration is to ascertain whether candidates are truthful, and his non-disclosure shows that he has scant regard for the law.

6. The Learned Additional Government Pleader also referred to the counter-affidavit and submitted that under Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules (TNSPSS), the petitioner would not become eligible for appointment unless he satisfies the authority that he was not involved in any criminal case prior to police verification. In the present case, the petitioner has deliberately suppressed this fact. It is not in dispute that the petitioner's matrimonial discord resulted in divorce by mutual consent granted by the Family Court, Kanyakumari, in D.O.P. No. 326 of 2016 by order dated 12.07.2017. The counter also adverts to the judgment of a Division Bench of this Court in the case of *Director General of Police, Tamil Nadu v. K. Indhu Kumar, W.A.(MD)No. 938 of 2020*. The relevant paragraphs are extracted hereunder:

“(D) SUMMARY OF PROPOSITIONS OF LAW

19. In the light of the foregoing discussion, the propositions of law may be summarised as follows:



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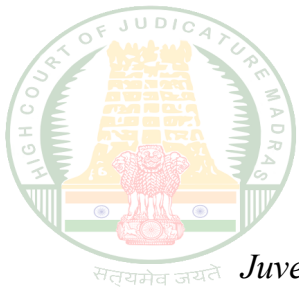
(a) Where a candidate has been honourably acquitted or discharged, the case has been closed as a mistake of fact, or the FIR or charge sheet has been quashed before the date of police verification, the same shall be considered in favour of the candidate in the current selection itself.

(b) Where a candidate has been acquitted on the ground of benefit of doubt or owing to the hostility of witnesses before the date of police verification, such acquittal would not confer any right upon the candidate to claim appointment as a matter of right. The employer may consider the suitability of the candidate based on his conduct and antecedents, provided the offences involved are trivial in nature.

(c) Where a criminal case has been quashed before police verification on the basis of a compromise, and the offence involved is trivial in nature, the same may be considered in favour of the candidate in the current selection itself. However, where the offence is not trivial in nature, the candidate shall not be entitled to appointment on that basis.

(d) Where a candidate, having knowledge of his involvement in a criminal case, has suppressed the same in his application and the offence involved is not trivial in nature, he shall not be entitled to seek appointment. However, in cases involving trivial offences, whether the candidate was unaware of his involvement or, despite having knowledge thereof, suppressed the same, the employer may, in its discretion, consider the candidature having regard to the candidate's character and past antecedents.

(e) Where a candidate is involved in petty or trivial cases, such as family disputes, disputes with neighbours, shouting of slogans, or traffic offences in which a fine has been imposed, the same may be treated as offences of a petty or trivial nature. However, offences against women or children, or offences under the NDPS Act, shall not be treated as trivial in nature.



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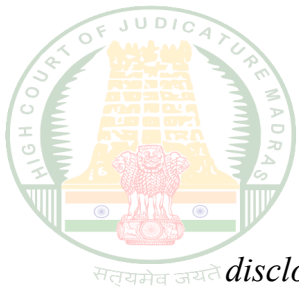
(f) *Where a candidate is involved in criminal proceedings under the Juvenile Justice Act, his or her candidature shall be considered in the light of the Division Bench judgment of this Court dated 01.03.2023 in Rev. Apn. No.17 of 2023 in W.A. No.2759 of 2018 (The Superintendent of Police, Villupuram District v. S. Rajeshkumar).*

(g) *Where, during the pendency of the recruitment process, a candidate is discharged from the criminal case or acquitted therein, he or she shall be eligible for consideration in the next recruitment process in accordance with Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules.” (emphasis supplied)*

7. The learned counsel for the petitioner relied on the judgment in the case of ***Commissioner of Police and Others v. Sandeep Kumar***, reported in (2011) 4 SCC 644 in which the Hon'ble Supreme Court held as follows:

“12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.”

8. The learned Counsel also referred the judgment of the Hon'ble Supreme Court in the case of ***Daya Shankar Yadav v. Union of India and Ors.*** reported in (2010) 14 SCC 103 in which the relevant portion is extracted hereunder:



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“d) On the other hand, if the employer finds that the criminal case disclosed by the declarant related to offences which were technical or of a nature that would not affect the declarant's fitness for employment, or where the declarant had been honourably acquitted and exonerated, the employer may ignore the fact that the declarant had been prosecuted in a criminal case and proceed to appoint him or continue him in employment”.

9. He also referred to the judgment in the case of **K. Sathiyaseelan v. Tamil Nadu Uniformed Services Recruitment Board**, reported in **2013 SCC OnLine Mad 732**, wherein the Hon'ble Supreme Court has held as follows:

“32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the



society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

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34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.

37. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislature. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected



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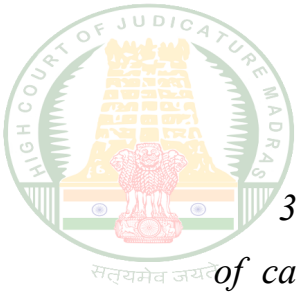
in a very large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.

38. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law and Justice to take appropriate steps in the larger interest of the society."

10. He also referred to the judgment in the case of **Avtar Singh v. Union of India**, reported in **(2016) 8 SCC 471**, wherein the Hon'ble Supreme Court has held as follows:

"38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.



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38.2. *While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.*

38.3. *In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted : -*

38.4.1. *In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.”*

11. The learned Additional Government Pleader appearing for the respondents also referred to two other decisions of this Court in ***M. Thirumal Chakravarthi v. The Member Secretary & ors, W.A.No.2408/2022*** dated **21.02.2025** and ***A. Ajith Kumar v. The Superintendent of Police & anr, W.P. No. 19025/2024*** dated **16.07.2024** and submitted that the law has long since been settled that in cases of such nature, suppression of information would result in the candidature being rejected. It is relevant to refer to the judgment of the Hon'ble



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Division Bench in ***M. Thirumal Chakravarthi v. The Member Secretary & ors,***

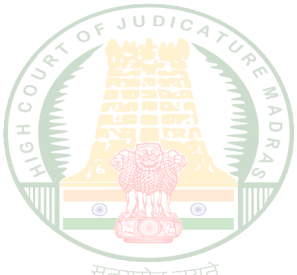
W.A.No.2408/2022, which are extracted hereunder:

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“5. This Court in several cases, based on the rules, held that suppression of pendency of a criminal case is more serious, particularly in the case of K.Ayyanar Vs. The State of Tamil Nadu, rep. By its Principal Secretary, Home Department, Secretariat, Chennai and 4 Others in W.A.(MD) No. 1053 of 2023 dated 27.07.2023, the Division Bench of this Court to which one of us is a party has elaborately considered by following precedents on this aspect. The relevant portions are extracted hereunder:

“ ...

9. The Full Bench of this Court in Manikandan and others vs. Chairman, Tamil Nadu Uniformed Services Recruitment Board reported in 2008 (2) CTC 97, has considered suppression as fatal in certain cases. The observation of the Full Bench in paragraph 35 of the said judgment reads as follows:- "Thus the above latest decision of the Apex Court has cleared the cloud of suspicion on the issue. Therefore we hold that the failure of a person to disclose his involvement in a criminal case, at the earliest point of time, when the application form is filled up, is fatal. His subsequent disclosure, whether before acquittal or after acquittal, will not cure the defect. In any case, the subsequent disclosure may not have any effect upon his selection, since his case will then fall under any one of the 2 Explanations under clause (iv) of Rule 14(b) and make him ineligible for the current selection or for all future selection depending on whether the acquittal is honorable or otherwise....””



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12. Having perused the records and given my anxious consideration to the contentions put forth by both sides, it is found that Crime No. 16 of 2016 was registered solely on the complaint of his wife arising out of matrimonial discord, and that action was thereafter dropped. Subsequently, the petitioner also obtained a divorce by mutual consent. In such circumstances, as on the date of application, there was no case pending against the petitioner, and even the case that was registered had been dropped.

13. Considering the trivial nature of the offence and the law laid down by this Court in ***Director General of Police, Tamil Nadu v. K. Indhu Kumar, W.A. (MD)No. 938 of 2020***, wherein, while classifying and illustrating various types of offences under the heading of “trivial offences,” this Court held that cases arising out of family disputes, disputes with neighbours, shouting of slogans, and traffic offences can be considered offences of a trivial nature, and hence condoned such erroneous non-disclosure. The relevant paragraphs of the said judgment are extracted hereunder:

“10.Petty and Trivial Cases:

The cases arising out of family dispute or with neighbors shouting of slogans and traffic offences where fine was imposed, can be considered to be offences of trivial in nature. Any offences against women, children or under NDPS Act should never be construed to be offences of trivial in nature.

...



19. In the light of the foregoing discussion, the propositions of law may be summarised as follows:

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(a) Where a candidate has been honourably acquitted or discharged, the case has been closed as a mistake of fact, or the FIR or charge sheet has been quashed before the date of police verification, the same shall be considered in favour of the candidate in the current selection itself.

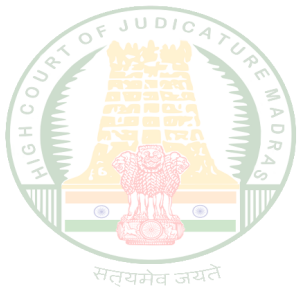
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(d) *Where a candidate, having knowledge of his involvement in a criminal case, has suppressed the same in his application and the offence involved is not trivial in nature, he shall not be entitled to seek appointment. However, in cases involving trivial offences, whether the candidate was unaware of his involvement or, despite having knowledge thereof, suppressed the same, the employer may, in its discretion, consider the candidature having regard to the candidate's character and past antecedents.*

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(g) *Where, during the pendency of the recruitment process, a candidate is discharged from the criminal case or acquitted therein, he or she shall be eligible for consideration in the next recruitment process in accordance with Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules.” (emphasis supplied)”*



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14. In the light of the above, this Court is of the view that the petitioner has made out a case, that the non-furnishing of details cannot amount to suppression, and that, even otherwise, the offence is trivial, having arisen out of matrimonial discord that ended in a divorce by mutual consent. Therefore, the petitioner is entitled to the relief sought for. Moreover, on the date of submission of the application, there was no case pending, as it has been closed at least 7 years prior to the application submitted by the petitioner.

15. In the result, the writ petition is allowed. The respondent is directed to consider the petitioner's appointment, subject to fulfilling all other conditions. No costs. Consequently, the connected miscellaneous petition is closed.

16.10.2026

NCC :yes/No
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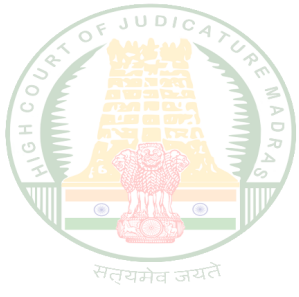
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RAJNISH PATHIYIL, J.

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Order in
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