BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**25.01.2021**

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.(MD).No.14230 of 2018
and
W.M.P.(MD).No.12875 of 2018

M.Maruthupandian ... Petitioner

vs.

1.Tamil Nadu Public Service Commission
represented by its Secretary,
Frazer Bridge Road,
Chennai 600 003.

2.The Deputy Secretary,
Tamil Nadu Public Service Commission,
Frazar Bridge Road,
Chennai 600 003.

3.P.Sonai

R3 is impleaded vide Court order
dated 07.12.2018 in W.M.P.(MD).No.13964 of 2018.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the impugned Memorandum No. 2195/OTD/A3/2015-2, dated 26.06.2018 passed by the second respondent and quash the same as illegal and direct the respondents to

appoint the petitioner as Assistant Jailor in Prison Department.

Petitioner	: Ms. G.Thangalatha for Mr.C.Arul Vadivel @ Sekar
For R1 & R2	: Mr.V.Panneerselvam Standing counsel
For R3	: Mr.N.Tamilmani

O R D E R

The petitioner challenges an order dated 26.06.2018 passed by the Tamil Nadu Public Service Commission and seeks further direction to appoint him as Assistant Jailor in the Prison Department.

2. The petitioner at the time of filing of the writ petition had been employed as a Jail Warder Grade-II having joined service on 29.10.2008. He appears to have submitted an application for direct recruitment for the post of Assistant Jailor in the Prison Department, for which a call had been made vide Notification No.6/2016, dated 09.03.2016.

3. He would state that he was successful in the written examination and had attended the certificate verification process. While so, he did not

receive a call letter for the interview and on verification, his application had been rejected, since he did not satisfy the eligibility conditions. He thus approached this Court seeking transparency as to why the application had come to be rejected, challenging order dated 26.10.2017

4. This Court, vide order dated 23.01.2018 in W.P.(MD).No.20474 of 2017, directed the respondents to publish the result of the oral test and to assess the suitability of the petitioner for the post and take a decision in regard to his request for appointment within eight weeks from the date of receipt of that order.

5. It is consequent thereupon that the present impugned order has come to be passed, wherein the second respondent would state that the petitioner was found unsuitable, as there was suppression of material information in the application for appointment, which vitiated the appointment itself.

6. Though the pendency of the criminal case and disciplinary proceedings both, have admittedly been suppressed by the petitioner in the application form, learned counsel for the petitioner

Ms.G.Thangalatha, would delve on the fact that both the criminal action as well as the disciplinary proceedings had ended favourably to the petitioner.

7. As far as the criminal case is concerned, she draws attention to an order passed in Crl.O.P.(MD).No.30725 of 2018, wherein by order dated 05.11.2019, the complaint as against the petitioner was quashed. The disciplinary proceedings have, according to her, been dropped. However, the specific case of the respondents turns upon the aspect of non-disclosure of the aforesaid cases in the application form.

8. The Hon'ble Supreme Court in the case of *Avtar Singh v. Union of India* ((2016) 8 SCC) has laid down stringent guidelines in regard to disclosure to be made in the application form by a candidate seeking public employment. Such disclosure is vital as it forms the basis for assessment and selection or otherwise of the candidate in the uniformed forces.

9. Thus, it was incumbent upon the applicant to have made a full and true disclosure of the pending criminal case involving allegations

under Sections 147, 302 r/w. 149 of I.P.C., as well as the disciplinary proceedings for major charges initiated in terms of Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules.

10. The fact that both the events have ended in his favour is irrelevant, in my view as the rejection of the appointment is, as the respondents argue, based upon the fact of admitted non-disclosure. In light of the discussion as above, I find no infirmity in the impugned order and confirm the same.

11. Incidentally, while the veracity or otherwise of an impugned order is to be decided by this Court on the strength of the order itself, the non-disclosure in the present case is perpetuated by the learned counsel as well. The copy of the application form circulated by learned counsel for the petitioner, consciously omits the second page, which contains the fields/columns in regard to whether there were disciplinary proceedings or criminal charges against the applicant.

12. The petitioner has clearly and categorically stated 'No' in both the fields which is a factually incorrect submission. It would have been

appreciated had this fact been brought to the notice of this Court by the petitioner and not by the respondents. This Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

25.01.2021

Index :Yes
Internet:Yes

akv

Note:
In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Commissioner of Municipal Administration,
Ezhilagam,
Chepauk,
Chennai 600 005.

2.The District Collector,
Thoothukudi District,
Thoothukudi.

3.The Commissioner,
Thoothukudi Corporation,
Thoothukudi,
Thoothukudi District.

DR. ANITA SUMANTH,J.

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ORDER MADE IN

W.P.(MD).No.14230 of 2018

25.01.2021