



WEB COPY



WP No.6789 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-11-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.6789 of 2018

And

WMP Nos.8411 and 8491 of 2018

V.Sangeetha

..

Petitioner

VS.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

2.The Superintendent of Police,
Vellore District,
Vellore.

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order passed by the second



WP No.6789 of 2018

respondent in Na.Ka.No.A2(3)/3000/2017 dated 26.10.2017 and quash the same and further direct the respondents to appoint the petitioner as Grade-II Police Constable (AR).

For Petitioner : Mr.S.Sivakumar
For Respondents : Mr.S.Rajesh,
Government Advocate.

O R D E R

The order of rejection rejecting the candidature of the writ petitioner for selection to the post of Grade II Police Constable is under challenge in the present writ petition.

2. The petitioner states that he participated in the process of selection for appointment to the post of Grade-II Police Constable. She had participated in the written examination and was successful and thereafter, allowed to participate in physical verification test. The petitioner came out successful. However, the Authorities have not considered the case of the



WP No.6789 of 2018

writ petitioner for selection on the ground that a criminal case was registered against the writ petitioner and the same was pending. That apart, the petitioner has suppressed the material fact regarding her involvement in the criminal case and for these reasons, the petitioner was not considered for selection and appointment to the post of Grade II Police Constable.

3. The learned Government Advocate appearing on behalf of the respondents made a submission that the petitioner is arrayed as Accused No.3 and a criminal case was registered in Crime No.531 of 2016 under Sections 294(b) and 324 IPC. The case was pending during the relevant point of time, when the petitioner submitted an application. In the Application Form in Serial Nos.15, 16 and 18, the petitioner has suppressed the fact regarding her involvement in the criminal case. Therefore, the petitioner was found not eligible for selection to the post of Grade II Police Constable.

4. Mere acquittal in criminal case would not be a ground to claim selection as a matter of right. Even in case of acquittal, the Competent



WP No.6789 of 2018

Authorities are empowered to conduct verification of character and antecedents, eligibility and suitability being vital criterias for selection to Uniformed Services. Verification of character and antecedents are to be done by the Competent Authorities. Thus acquittal in criminal case is not a ground to claim selection as a matter of right.

5. Even recently, the Honourable Supreme Court of India in the case of **Commissioner of Police vs. Raj Kumar [2021 (9) Scale 713]**, wherein it has been held as follows:~

“26. Courts exercising judicial review cannot second guess the suitability of a candidate for any public office or post. Absent evidence of malice or mindlessness (to the materials), or illegality by the public employer, an intense scrutiny on why a candidate is excluded as unsuitable renders the courts- decision suspect to the charge of trespass into executive power of determining suitability of an individual for appointment. This was emphasized by this court, in M.V.Thimmaiah v. Union Public Service Commission [(2008) 2 SCC 119] held as follows:



WEB COPY



WP No.6789 of 2018

“21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine the recommendations of the Selection Committee like the court of appeal. This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine the selection of the candidates nor is the business of the court to examine each candidate and record its opinion...”

xxxxxxxxxxxxxxxxxxxx

30. We fail to understand how the Tribunal can sit as an Appellate Authority to call for the personal records and constitute Selection Committee to undertake



WEB COPY



WP No.6789 of 2018

this exercise. This power is not given to the Tribunal and it should be clearly understood that the assessment of the Selection Committee is not subject to appeal either before the Tribunal or by the courts. One has to give credit to the Selection Committee for making their assessment and it is not subject to appeal. Taking the overall view of ACRs of the candidates, one may be held to be very good and another may be held to be good. If this type of interference is permitted then it would virtually amount that the Tribunals and the High Courts have started sitting as Selection Committee or act as an Appellate Authority over the selection.”

...

...

29. Public service ~ like any other, pre-supposes that the state employer has an element of latitude or choice on who should enter



its service. Norms, based on principles, govern essential aspects such as qualification, experience, age, number of attempts permitted to a candidate, etc. These, broadly constitute eligibility conditions required of each candidate or applicant aspiring to enter public service. Judicial review, under the Constitution, is permissible to ensure that those norms are fair and reasonable, and applied fairly, in a non-discriminatory manner. However, suitability is entirely different; the autonomy or choice of the public employer, is greatest, as long as the process of decision making is neither illegal, unfair, or lacking in bona fides.

30. The High Court's approach, evident from its observations about the youth and age of the candidates, appears to hint at the general acceptability of behaviour which involves petty crime or misdemeanour. The impugned order indicates a broad view, that such misdemeanour should not be taken seriously, given the age of the youth and the rural setting. This court is of opinion that such generalizations, leading to condonation of the offender's conduct, should not



enter the judicial verdict and should be avoided. Certain types of offences, like molestation of women, or trespass and beating up, assault, causing hurt or grievous hurt, (with or without use of weapons), of victims, in rural settings, can also be indicative of caste or hierarchy-based behaviour. Each case is to be scrutinized by the concerned public employer, through its designated officials~ more so, in the case of recruitment for the police force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security.”

6. This Court is of the considered opinion that the verification of suitability, eligibility and antecedents of the candidates are of paramount important. The decision of the Selection Committee in this regard becomes final. High Court cannot interfere with the decision of the Selection Committee regarding the assessment of suitability, eligibility and verification of the antecedents. Hence, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioner.



WEB COPY



WP No.6789 of 2018

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

18-11-2022

Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

Svn

To

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

2.The Superintendent of Police,
Vellore District,
Vellore.



WEB COPY



WP No.6789 of 2018

S.M.SUBRAMANIAM, J.

Svn

WP 6789 of 2018



WEB COPY



WP No.6789 of 2018

18-11-2022