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W.P.No.13843 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13843 of 2018

A.Senthil

...Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniformed Services,
Recruitment Board,
Old Commissioner of Police Officer Campus,
Pantheon Road, Egmore,
Chennai – 08.

2.The Additional Director General of Police/
Director General of Prison,
Office of the Director General of Police,
Beach Road,
Chennai – 600 004.

3.The Superintendent of Police,
Villupuram,
Villupuram District.

Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in his proceedings in



W.P.No.13843 of 2018

Na.Ka.No.A2/4500/2017, dated 16.03.2018, setting aside the same and consequently directing the respondents to appoint the petitioner as Constable Grade - II in the recruitment of the year 2017-2018.

For Petitioner : Mr.L.Chandrakumar for
for Mr.R.Kamaraj

For Respondents : No Appearance for R1

Mr.S.Rajesh
Government Advocate for R2 & R3

ORDER

The order of rejection rejecting the candidature of the writ petitioner for selection to the post of Grade II Police Constable in the recruitment of the year 2017-18 is under challenge in the present writ petition.

2.Pursuant to the recruitment notification, the petitioner participated in the process of selection for appointment to the post of Grade II Police Constable. He was successful in the written examination and was permitted to participate in the physical verification test and endurance test. The petitioner has stated in his application that a criminal case was pending against him in



W.P.No.13843 of 2018

Crime No.45/2017 which was converted as C.C.No.159 of 2017 on the file of the learned Judicial Magistrate-II, Ulundurpet under Sections 147, 148, 294(b), 323, 324, 506(i) of IPC. Therefore, the learned counsel for the petitioner reiterated that the petitioner has not suppressed the fact regarding the registration of a criminal case against him and he had clearly mentioned in the application itself. However, the selection of the writ petitioner was not considered on the ground that the character and antecedents of the writ petitioner was not satisfactory. The order impugned reveals that on verification of antecedents and character, the authorities found not satisfactory and accordingly, the petitioner was not selected for appointment.

3.The learned counsel for the petitioner mainly contended that there was no suppression on the part of the writ petitioner regarding the criminal case registered against him and the said case ended with an order of acquittal and therefore, the criminal case cannot be an impediment for the purpose of selecting the petitioner for appointment to the post of Grade II Police Constable. Once the candidate was acquitted and he has not suppressed any fact in the application the authorities ought to have considered the case of the writ



W.P.No.13843 of 2018

petitioner for selection and appointment.

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4.The counter filed by the 3rd respondent Superintendent of Police reveals that the petitioner was involved in the criminal case in Ulundurpet Police Station in Crime No.45/2017. Rule 13(b) and (e) of the Tamil Nadu Police Subordinate Service Rules stipulates that no person who is a candidate for selection to the post of Grade II Police Constable shall be eligible for appointment unless he satisfies the appointing authority that his character and antecedents are such as to qualify him for such service and person who is acquitted or discharged on benefit of doubt or due to the fact that the complainant turned hostile shall be treated as a person involved in criminal case at the time of police verification and the case yet to be disposed of and subsequently, ended in Hon'ble Acquittal or teated as mistake of fact shall be treated as not involved in a criminal case and he claims for right of appointment only by participating in the next selection. Therefore, in respect of the selection of the year 2017-18, the petitioner has not suppressed the fact regarding the registration of a criminal case against him in the application. However, the case ended with an order of acquittal. Thus, the nature of acquittal can be considered



W.P.No.13843 of 2018

only if the petitioner participates in the next selection if any notified by the competent authorities. As far as, the selection of the year 2017-18 is concerned, the respondents have considered the case of the writ petitioner and found that the antecedents and character of the petitioner was not satisfactory. In this regard, the respondents have further stated that after the receipt of Judgment copy in the above case he had sought for appointment on the grounds of acquittal in the case. He was issued an Endorsement in C.No.A2/4500/2017, dated 16.03.2018, stating that he was already issued with an Endorsement in this matter on 28.10.2017. He was informed that he was involved in the criminal case in Ulundurpet Cr.No.45/2017, u/s 147, 148, 294(b), 323, 324, 506(i) IPC. He was informed that as per rule 13(b) & (e) of Tamil Nadu Police Subordinate Service Rules as person who is a candidate for selection of Gr.II.PCs should not have been involved in a case before the verification and his character and antecedents are not satisfactory. Further he was informed that as per Rule 13(b) and explanation (1) any person who is acquitted on Benefit of Doubt shall be considered as person involved in a criminal case of the time of Police verification. It was informed that such as the petitioner was acquitted on Benefit of Doubt in CC No.159/2017, dated 07.03.2018 by the J.M.Ulundurpet he could



W.P.No.13843 of 2018

not appointed. This Writ Petition is filed by the petitioner against the said order.

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5.Regarding the decision of the Selection Committee in the matter of verification of antecedents and character, the Hon'ble Supreme Court of India in the case of ***Commissioner of Police vs. Raj Kumar*** reported in ***2021 Scale (9) 713*** 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:

“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



WEB COPY



W.P.No.13843 of 2018

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...

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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 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



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W.P.No.13843 of 2018

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.”

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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



W.P.No.13843 of 2018

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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 verification of suitability, eligibility and antecedents of the candidates who all are participating in the selection in uniformed services are of paramount importance. The decision of the Selection Committee in this regard becomes final and High Court cannot interfere with the decision of the Selection Committee in the matter of assessment of eligibility and verification of antecedents and suitability, unless



W.P.No.13843 of 2018

the petitioner establishes that such a decision is tainted with allegations of malafides or on account of certain corrupt practices. In the present case, the authorities competent verified the antecedents and character of the petitioner and found not satisfactory and thus, this Court is not inclined to interfere with the order impugned.

7. Accordingly, this writ petition stands dismissed. No Costs.

01.11.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr

To

1. The Chairman,
Tamil Nadu Uniformed Services,
Recruitment Board,
Old Commissioner of Police Officer Campus,
Pantheon Road, Egmore,
Chennai – 08.

2. The Additional Director General of Police/



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WEB COPY



W.P.No.13843 of 2018

S.M.SUBRAMANIAM, J.

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W.P.No.13843 of 2018

01.11.2022

12/12