



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.1783 of 2022

and

W.M.P. (MD) No.1573 of 2022

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A.Antony Prakash

... Petitioner

vs.

1.The Chairman

Tamil Nadu Uniformed
Services Recruitment Board
No.807, Chengalvarrayarmaligai
Anna Salai, Chennai-600 002

2.The Member Secretary

Tamil Nadu Uniformed
Services Recruitment Board
Chennai

3.The Director General of Police

Kamarajar Salai
Chennai-600 004

4.The Superintendent of Police

Thoothukudi District
Thoothukudi

5.The Inspector of Police

Thalamuthunagar Police Station
Thoothukudi District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 4th respondent in Na.Ka.No.A5/27441/310/2020, dated 07.01.2022 and quash the same and consequently direct the respondents to appoint the petitioner in the post of Grade-II Police Constable in the common recruitment for the post of Grade-II Constables (Men, Women, 3rd Gender), Grade -II Jail Wardens (Men and Women) and Firemen for the year 2020 and allow him to attend the training.

For Petitioner : Mr.Antony Arulraj.T.

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader



O R D E R

The order of rejection, dated 07.01.2022, passed by the fourth respondent, rejecting the candidature of the petitioner for recruitment to the post of Grade-II Police Constable, is under challenge in this writ petition.

2. The petitioner participated in the process of selection for recruitment to the post of Grade-II Police Constable and he was successful in the written examination and allowed to participate in the physical verification test and endurance test.

3. A criminal case was registered against the petitioner in Crime No.510 of 2014, on the file of the fifth respondent - Police, under Sections 294(b) and 506(ii) I.P.C. The petitioner was acquitted under Section 248(i) Cr.P.C., on the ground that the prosecution witnesses turned hostile.

4. No doubt, the petitioner informed the fact regarding registration of criminal case both in the application form as well as during verification. However, the fact remains that he was acquitted under Section 248(i) Cr.P.C., on the ground that the prosecution witnesses turned hostile. Therefore, there is a statutory bar for selection and the Selection Committee considered the statutory bar. Hence, the Selection Committee formed overall opinion and decided that character and antecedents of the petitioner are not satisfactory.

5. This Court is of the opinion that the overall opinion formed by the Selection Committee regarding character and antecedents of the candidate cannot be interfered with by the High Court in a routine manner, unless such a decision of the Selection Committee is tainted with mala fides or directly in violation of the statutory provisions of law. Therefore, the scope of judicial review into the decision of the Selection Committee by the High Court is absolutely limited. High Court cannot sit on appeal on the Selection Committee and compare the relative merits and take a decision. High Court cannot exercise such powers against the decision of the Selection Committee. It is beyond the scope of judicial review under Article 226 of the Constitution of India. The fact remains that a criminal case was registered against the petitioner and he was arrested and the case was ended with an order of acquittal. However, the Selection Committee considered all over relative merits and formed an opinion that the petitioner is not suitable and eligible for selection.

6. The Honourable Supreme Court of India in the case of **Commissioner of Police vs. Raj Kumar**, by Judgment dated 25.08.2021, passed in C.A.No.4960 of 2021, has held as follows:-

"26. Courts exercising judicial review cannot



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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 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 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 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."



7. This Court is of the considered opinion that verification of suitability, eligibility and antecedents of the candidates are of paramount importance. 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.

8. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

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/ /2022

Sub Assistant Registrar (CS)

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To:

- 1.The Chairman,
Tamil Nadu Uniformed
Services Recruitment Board,
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- 5.The Inspector of Police,
Thalamuthunagar Police Station,
Thoothukudi District.

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-14173[F] dated 24/03/2022)



W.P.(MD) No.1783 of 2022

+1 CC to M/s.SPL GP (SR-14880[F] dated 28/03/2022)

W.P. (MD) No.1783 of 2022

and

W.M.P. (MD) No.1573 of 2022

24.03.2022

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