



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.1757 of 2022

W.M.P(MD).No.1547 of 2022

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M.Shunmugaraj

... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, Chengalvarayarmaligai,
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:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, calling for the records relating to the impugned order passed by the fourth respondent in Na.Ka.No.AS/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 Constable (Men, Women, 3rd Gender), Grade-II Jail Wardens (Men & Women) and Firemen for the year 2020 and allow him to attend the training.

For Petitioner : Mr.T.Antony Arulraj

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 rejecting the candidature of the petitioner for selection to the post of Grade-II Police Constable is under challenge in the present Writ Petition.

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2. The case of the writ petitioner was rejected mainly by invoking the Rule 14(b)(iv) of Tamil Nadu Special Police Sub-ordinate Service Rules. As per the Special Rules, during the verification of character and antecedents, if it is found that a candidate has already involved in criminal case and was acquitted on benefit of doubt, he is not eligible and suitable for selection to the post of Grade-II Police Constable. In the present case, the petitioner has involved in the criminal case and though he has disclosed the fact regarding the criminal case, the Authorities found that the acquittal was on benefit of doubt and therefore, by invoking the Special Rules, the candidature of the petitioner was rejected.

3. The learned Additional Advocate General made a submission that the petitioner has disclosed the fact regarding the registration of criminal case in the application and during the time of verification. However, the petitioner was acquitted from the criminal case on benefit of doubt. Hence, on that ground, the Authorities have rejected the candidature of the petitioner. Even recently, the Hon'ble Supreme Court of India in the case of **Commissioner of Police vs. Raj Kumar** in C.A.No.4960 of 2021 dated 25.08.2021 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 Commission⁷ 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...

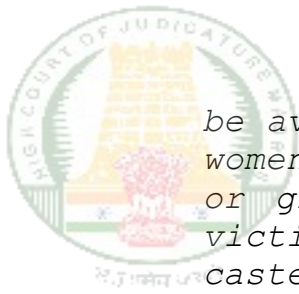
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30. We fail to understand how the Tribunal can sit as an Appellate Authority to call for the personal records and constitute Selection Committee to undertake this exercise. This power is not given to the Tribunal and it should be clearly understood 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."

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."

4. This Court is of the considered opinion that the verification of character and antecedent is of paramount importance and the assessment made in this regard by the Competent Selection Committee is final. Power of judicial review in the matter of selection under Article 226 of the Constitution of India is undoubtedly limited. The Court cannot make its own assessment for selection to the uniformed services. The Court not being an expert body, cannot interfere with such findings of selection. If only such findings are tainted with malafide which is established before the Court of law, the Court can interfere with the findings, but not otherwise. Therefore, the petitioner is not entitled for any relief as such sought for in the present Writ Petition.

5. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Chairman,

Tamil Nadu Uniformed Services Recruitment Board,
No.807, Chengalvarayarmaligai,
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.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T. ANTONY ARUL RAJ, Advocate (SR-18250[F] dated
12/04/2022)

+1 CC to M/s.SPL.GP (SR-17930[F] dated 11/04/2022)

W.P. (MD) No.1757 of 2022

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MGJ(25.04.2022) 5P 9C