



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5130 of 2020

W.M.P (MD).No.4478 of 2020

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P.Muthukumar

... Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Beach Road,
Chennai.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records connected to the order dated 27.11.2018 in Na.Ka.No. A2(1)/10/306/2018 passed by the respondent No.2 and quash the same as illegal, consequently directing the respondents to constitute re-medical board to test the fitness of the petitioner's eyes and to appoint him as Constable Grade-II (AR) under the respondents within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani

For Respondent : 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 recruitment to the post of Grade-II Police Constable is under challenge in the present Writ Petition.

2. The petitioner participated in the process of selection. The petitioner informed about the registration of a criminal case in his application. A criminal case was registered in Crime No.132 of 2012 under Sections 147, 148, 294(b), 427 and 506(ii) of IPC dated 09.05.2012. The petitioner was acquitted under Section 248(i) of Criminal Producer Code dated 05.07.2013 on the ground of hostility of witnesses. The Selection Committee has formed an opinion that the



character and antecedents of the petitioner are not satisfactory. The Selection Committee further found that the petitioner is not medically fit as both eyes color vision is defective. Therefore, the Selection Committee formed an opinion that the petitioner is not suitable for selection to the post of Grade-II Police Constable. 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 Commission*⁷ 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."

3. This Court is of the considered opinion that the verification of suitability, eligibility and antecedents 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. Once it is found that the petitioner has involved in criminal case, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioner.



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

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Director General of Police,
Office of the Director General of Police,
Beach Road,
Chennai.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Virudhunagar District.

+1 CC to M/s.S.MALAIKANI, Advocate (SR-14102[F] dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14850[F] dated 28/03/2022)

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24.03.2022

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