



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) Nos.6775 & 6780 of 2021

W.M.P(MD).Nos.5215, 5222, 5217 and 5223 of 2021

S.Mathialgan ... Petitioner
in W.P(MD).No.6775 of 2021

S.Ganesan ... Petitioner
in W.P(MD).No.6780 of 2021

Vs.

- 1.The Director General of Police,
O/o the Director General of Police,
Dr.Radhakrishnan Salai, Mylapore, Chennai
- 2.The Chairman,
Tamil Nadu Uniform Services Recruitment Board,
Old Commissioner of Police Office Campus, Chennai 02.
- 3.The Superintendent of Police
O/o. the Superintendent of Police,
Dindigul. ... Respondents in both petitions

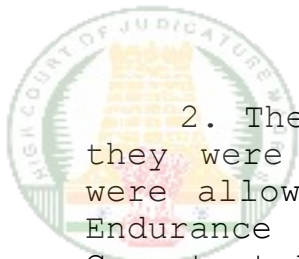
Common Prayer:-Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, calling for the records pertaining to the impugned order of the 3rd respondent in his proceedings in C.No.A9/9034/2017 dated 30.11.2020 and quash the same and consequently direct the respondents herein to appoint the petitioners as Constable Grade-II (Men) for the year 2017 vide Enrolment Nos.2605456 and 2606950.

In both petitions

For Petitioner : Mr.S.Ramsundarvijayraj
For Respondents : Mr.A.K.Manikkam,
Special Government Pleader

C O M M O N O R D E R

The order of rejection rejecting the candidature of the petitioners for recruitment to the post of Grade-II Police Constable is under challenge in the present Writ Petitions.



2. The petitioners participated in the process of selection and they were successful in the written examination. The petitioners were allowed to participate in the physical verification test and Endurance test. At the time of verification of antecedents, the Competent Authorities of the Police Department found that a criminal case was registered against the petitioners in Crime No.190 of 2010 for the offence under Sections 294(b), 323 and 506(ii) of IPC dated 15.08.2010. The said factum was suppressed by the writ petitioners at the time of submission of the application, pursuant to the recruitment notification. This apart, the order of acquittal was passed on the ground that the prosecution failed to prove the charge, which cannot be a ground to seek the selection and appointment to the post of Grade-II Police Constable. Even in the absence of registration of any criminal case, verification of antecedent, character, eligibility and suitability are the prerogative of the Selection Committee, which cannot be questioned ordinarily by the High Court. 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



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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 petitioners have involved in criminal case, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioners.

4. Accordingly, the Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Director General of Police,
O/o the Director General of Police,
Dr.Radhakrishnan Salai, Mylapore, Chennai

2.The Chairman,
Tamil Nadu Uniform Services Recruitment Board,
Old Commissioner of Police Office Campus, Chennai 02.

3.The Superintendent of Police
O/o. the Superintendent of Police, Dindigul.

+2 CC to M/s.S.RAMSUNDARVIJAYRAJ (VEERA ASSOCIATES), Advocate
(SR-14068 & 14069[F] dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14231 & 14240[F] dated 24/03/2022)

W.P.(MD) Nos.6775 & 6780 of 2021

22.03.2022

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