



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) No.6374 of 2020

W.M.P(MD).No.5625 of 2020

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P.Rasukutty

... Petitioner

Vs.

- 1 The State of Tamil Nadu Represented by
The Principal Secretary to Government
Home(Police) Department, Fort St.George,
Secretariat, Chennai-600 009
- 2 The Chairman
Tamil Nadu Uniformed Service Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai-600 002
- 3 The Director General of Police,
Mylapore, Chennai-600 004
- 4 The Superintendent of Police
Virudhunagar, Virudhunagar District
- 5 The Inspector of Police
Krishnankovil Police Station,
Virudhunagar District.

... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Ceritorarified Mandamus, calling for entire records relating to the impugned proceedings in Na.Ka.No.A2(1)/22995/2019 dated 20.5.2020 issued by the 4th respondent and quash the same as illegal and consequently direct the respondents herein to issue appointment order pursuant to the selection list dated 04.02.2020 published by the Tamil Nadu Uniformed Services Recruitment Board(TNUSRB) under Advertisement No.1/2019 dated 06.03.2019 within the time limit fixed by this Honble Court

For Petitioner : Mr.R.Ragvendran

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 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 and he was successful in the written examination. The petitioner was 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 petitioner in Crime No.56 of 2016 for the offence under Sections 294(b), 342, 324, 506(ii) of IPC dated 15.03.2016.

3. The learned Additional Advocate General made a submission that the petitioner has suppressed the criminal case in the application itself. The petitioner is very much aware of the criminal case as he was arrested on 15.03.2016. Though the petitioner is acquitted in the criminal case, the said acquittal will not be a ground to claim 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 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



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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 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 a criminal case, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioner.

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

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

- 1 The Principal Secretary to Government
Home(Police) Department, Fort St.George,
Secretariat, Chennai-600 009
 - 2 The Chairman
Tamil Nadu Uniformed Service Recruitment Board,
807, 2nd Floor, Anna Salai,
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 - 3 The Director General of Police,
Mylapore, Chennai-600 004
 - 4 The Superintendent of Police
Virudhunagar, Virudhunagar District
 - 5 The Inspector of Police
Krishnankovil Police Station,
Virudhunagar District.
- +1 CC to M/s.R.RAGAVENDRAN, Advocate (SR-13826[F] dated 23/03/2022)
- +1 CC to M/s.SPL GP (SR-14277[F] dated 24/03/2022)

W.P. (MD) No.6374 of 2020

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MGJ(01.04.2022) 4P 8C