



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.6734 of 2020
W.M.P (MD) .Nos.6102 & 6103 of 2020

C.Ashok Kumar

... Petitioner

Vs.

1.Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-600 008.

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

... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, calling for the records of the impugned order of the second respondent in Na.Ka.No.A2(1)/22995/2019 dated 20.05.2020 and quash the same as illegal and consequently direct the respondents to select and appoint the petitioner for the post of Grade-II Police Constable in common recruitment for the post of Grade-II Police Constable (Men, Women and Transgender), Grade-II Jail Warden (Men and Women), Fireman (Men) 2019 within the time stipulated by this Court.

For Petitioner	:	Mr.R.Senthil Prabhakar
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.

2. Pursuant to the recruitment notification issued by the
<https://hcservices.ecourts.gov.in/hcservices/>



respondents, the petitioner participated in the process of selection for appointment to the post of Grade-II Police Constable, Grade-II Jail Warden and Fireman (Men). The petitioner was successful in the written examination and participated in the physical verification test and endurance test.

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3. The learned Additional Advocate General appearing for the respondents made a submission that two criminal cases were registered against the petitioner in Crime No.200 of 2015 under Sections 294(b), 448, 323, 506(i) of IPC r/w 4 of TNWH Act on the file of Elayirampannai Police Station, Virudhunagar, in which, the petitioner was arrayed as third accused and Crime No.1 of 2019 under Sections 294(b), 498(A), 506(ii) of IPC and 4 of D.P.Act, on the file of All Women Police Station, Sathur, in which, the petitioner is arrayed as fifth accused and the said case is under investigation. Though he has disclosed the fact regarding the registration of criminal cases in the application and during the verification, he was acquitted from the criminal case on benefit of doubt. Therefore, the Authorities 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."

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4. Though in the criminal case the petitioner was acquitted, it is pointed out by the learned Additional Advocate General that he was acquitted on benefit of doubt. Therefore, the Authorities found that the petitioner is not eligible and suitable for selection to the post of Grade-II Police Constable. Assessment of suitability and eligibility is the prerogative of the Committee and once the Competent Authorities, on verification of character and antecedents, formed an opinion that the petitioner is not eligible and suitable for selection to the post of Grade-II Police Constable, the Court will not interfere with such findings as it becomes final. Therefore, the petitioner is not entitled for the relief as such sought for in the present Writ Petition.

5. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-600 008.

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

+1 CC to M/s.SPL.GP (SR-17907[F] dated 11/04/2022)

+1 CC to M/s.M. KANNAN, Advocate (SR-18031[F] dated 12/04/2022)

W.P. (MD) No.6734 of 2020

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SG(CO)

KB(22.04.2022) 4P 5C

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