



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.8082 of 2021

R.Rajapandian

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Home Department,
St.George Fort
Chennai - 600 009.

2.The Director General of Police / Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.

3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Endorsement in C.No.A3/9645/2017 dated 18.03.2020 made by the 3rd respondent herein and quash the same as illegal, unconstitutional and consequently direct the 2nd respondent herein to appoint the petitioner as a Police Constable Grade-II in the Tamil Nadu Police Service based on his representation dated 23.12.2019 made to the 2nd respondent herein.

For Petitioner : Mr.K.Kannan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
Assisted by
Mr.A.K.Manikkam
Spl.Govt.Pleader

**ORDER**

The order of rejection, rejecting the candidature of writ petitioner for selection to the post of Grade-II Police Constable, is under challenge in the present writ petition.

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2. Mere participation in the process of recruitment or even selection would not confer any right on the candidates to seek appointment. Even a selected candidate cannot claim appointment as a right. While so, in the present case, the petitioner participated in the process of selection and was successful in the written examination. He was allowed to participate in the Physical Verification Test and Endurance Test. At the time of submission of the application, there was no criminal case registered against the writ petitioner. However, during the process of selection, a criminal case was registered against the writ petitioner in Crime No.67 of 2017 for the offences under Sections 147, 294(b), 324 and 307 r/w 149 IPC., dated 06.07.2017. The petitioner was released on anticipatory bail on 09.08.2020. Though the criminal case ended with an order of acquittal under Section 235(i) Cr.P.C., on the ground that the prosecution failed to prove the case, the said acquittal would not be a ground to seek selection and appointment to the post of Grade-II Police Constable.

3. The learned Additional Advocate General brought to the notice of this Court that at the time of verification of certificates the petitioner has not informed about the registration of the criminal case and he has suppressed the facts. When the writ petitioner was released on anticipatory bail was having the knowledge about the criminal case, but suppressed the facts and therefore, he is not entitled for any relief as such sought for. The petitioner being a convicted person, is not entitled for selection to the post of Grade-II Police Constable in Uniformed Services. 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



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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 candidates who have involved in a criminal case and the merits assessment, verification of antecedents and suitability and eligibility which all are made by the competent selection committee cannot be interfered with by the High Courts in a routine manner. A process of selection can be questioned only if tainted with mala fide or on allegation of fraud or corrupt activities are established. The merit assessment made by the selection committee becomes final. The power of judicial review cannot be interfered with the merit assessment made by the authorities based on subjective satisfaction.

5. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Principal Secretary,
State of Tamil Nadu,
Home Department,
St.George Fort, Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Director General of Police / Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.

3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-13693[F] dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-14301[F] dated 24/03/2022)

W.P. (MD) No.8082 of 2021
22.03.2022

MPK
MS/29.03.2022/5P.6C