



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.7233 of 2020
W.M.P (MD).No.6678 of 2020

Manikandan

... Petitioner

Vs.

1.The Member Secretary
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office
Compound, Pantheon Road, Egmore,
Chennai-8

2.The Director General of Police,
Chennai.

3.The Superintendent of Police
Thoothukudi.

... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, call for the records of the 3rd respondent in Na.Ka.No.A5/19292/2019 dated 07.05.2020 and quash the same as illegal and arbitrary and in consequence thereof declare the candidature of petitioner registration No.3100965 as eligible for the post of Grade II constable in the common recruitment 2019 scheme and provide employment to the petitioner.

For Petitioner : Mr.P.Ganapathi Subramanian

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 for appointment to the post of Grade-II Police Constable. The petitioner has suppressed the fact regarding the registration of criminal case in the application itself. 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.83 of 2018 for the offence under Sections 294(b), 506(i) of IPC r/w. 3(1)(r) of SC/ST Act on 18.07.2018.

3. The learned Additional Advocate General made a submission that the petitioner has suppressed the fact regarding the registration of the criminal case against him both in the application as well as during the verification. He was acquitted on the ground that the witnesses turned hostile. This apart, the order of acquittal in the criminal case was passed, after the submission of the application by the petitioner and more specifically, during the submission of the application, the criminal case was pending. Thus, the suppression is held as against 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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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 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 III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

- 1.The Member Secretary
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office
Compound, Pantheon Road, Egmore Chennai-8
- 2.The Director General of Police,
Chennai
- 3.The Superintendent of Police
Thoothukudi.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No.7233 of 2020

22.03.2022

MGJ(31.03.2022) 4P 5C

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