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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.8562 of 2021

W.M.P(MD).No.6446 of 2021

G.Prema

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul District.

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, call for the records relating to the impugned order dated 02.06.2020 in Na.Ka.No.3/5656/2020 of the second respondent and the consequential impugned Order in Rc.No.AP-A1/2832/674/2019 dated 17.11.2020 of the first respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondent : Mr.A.K.Manikkam,
Special Government Pleader

O R D E R

The relief sought for in the present Writ Petition is to call for the records pertaining to the impugned order dated 02.06.2020 in Na.Ka.No.3/5656/2020 of the second respondent and the consequential impugned order in Rc.No.AP-A1/2832/674/2019 dated 17.11.2020 of the first respondent and quash the same.

2. The petitioner, who was recruited as Police Constable, was terminated while undergoing the police training. The appeal filed by the petitioner was also rejected. The petitioner participated in the process of selection for appointment to the post of Grade-II Police Constable. She was successful in the selection process and appointed by the Recruitment Board. The petitioner was sent for police training. On completion of one month training, the petitioner received a show cause notice from the respondents by stating that why action should not be taken against her for suppression of her involvement in the criminal cases.



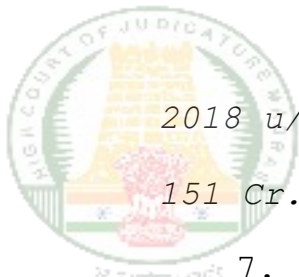
3. The learned counsel appearing for the petitioner strenuously contended that the petitioner has not involved in any serious criminal offence and she participated in a protest which is of trivial in nature. When the petitioner has participated in such protest, the same cannot be held as against the petitioner as she was selected for appointment to the post of Grade-II Police Constable. The learned counsel appearing for the petitioner further states that the petitioner was a member of the Organization namely Makkal Athigaram and she was attacked while participating in agitation. Therefore, there were protests by the said Organization and during the protest, the petitioner was taken to a marriage hall. The learned counsel appearing for the petitioner made a submission that the petitioner has not given her name and address to the police.

4. The learned counsel appearing for the petitioner is of the opinion that the allegation against the petitioner is trivial in nature. Therefore, she must be exonerated and allowed to continue in the police training course. The respondents have not considered all these aspects. Thus, the petitioner is constrained to move the present writ petition.

5. The learned Special Government Pleader objected the contention raised on behalf of the petitioner by stating that the petitioner has involved in criminal cases. The involvement was suppressed by the petitioner. Further, the petitioner has given fake name and fake address as Kalaimani and resident of Karuppasamy Koil Street, Meenakshipuram, Bodinayakkanur, instead of Tmt.G.Prema, Ward-5, Kallar Palli Street, Narayanathevan patti, Uthamapalayam Taluk. The petitioner has suppressed her husband's original name and mentioned fake name as Murali, instead of C.Murugan. It is contended that the petitioner has not only give fake name and fake address, and she has changed the name of her husband and furnished fake name. A criminal case was registered in Kumuli Police Station in Crime No.40 of 2017 under Section 151 of Cr.P.C and the case was physically verified and confirmed by WPC 464 Anitha. The fact regarding the criminal case was accepted by the petitioner. The petitioner has accepted her presence in the photo submitted by Makkal Athikaram and acknowledged the same by putting her signature along with her husband namely Murugan during the enquiry.

6. The respondents have stated that the petitioner has attended several public movements and agitations in the banner of Makkal Athikaram for which, three cases were registered against the petitioner and she was also arrested. The details of the cases are as under:-

- i. Kumuli Police Station, Case No.40 of 2017 u/s 151 Cr.P.C*
- ii. Uthamapalayam Police Station, case No.104 of*



2018 u/s 151 Cr.P.C.

iii. Cumbum Police Station case No.204 of 2018 u/s 151 Cr.P.C.

7. Whenever the petitioner was arrested for agitation, she used to mention only her fake name and fake address as Kalaimani and resident of Karuppasamy Koil Street, Meenakshipuram, Bodinayakkanur instead of Tmt.G.Prema, Ward-5, Kallar Palli Street, Narayanathevan patti, Uthamapalaym Taluk. Further, she used to record her husband's name in a fake manner. The name of her husband is C.Murugan, but she always used to record her husband's name as Murali.

8. The respondents have verified the Police Verification roll column Nos.15, 16 and 18. She has suppressed the fact regarding the involvement in the criminal cases in the application form, verification roll and police enquiry form. The ADSP, CWC, Theni District, has also furnished the information stating that "the petitioner is one of the member of Makkal Athikaram and taken part in several public movements and agitation, for which, three cases are registered. She was arrested and she has suppressed the fact and mentioned her fake name and fake address".

9. The service of the petitioner is not even confirmed. She is in police training. She was police recruit and permitted to undergo training. During the training period, the Authorities found that the petitioner has suppressed the fact and involved in criminal case and accordingly, issued a show cause notice. The petitioner participated in the process of enquiry. She has admitted certain facts. Based on her admission and relying on the documents and evidences, the respondents formed an opinion that the petitioner is not fit to continue as police Recruit and undergo the police training. Accordingly the Original Authority namely the Superintendent of Police, Theni District passed an order on 02.06.2020 terminating the services of the petitioner. The petitioner preferred an appeal before the Deputy Inspector General of Police, Dindigul and the said appeal was rejected.

10. 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:



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"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."

11. In the present case, at the time of selection, the Authorities could not able to verify the criminal case as the petitioner has suppressed the fact regarding the criminal case. She was selected as Police Recruit and sent for training. On completion of one month training, the Authorities found that the petitioner has suppressed the fact and involved in criminal case, therefore, issued a show cause notice and collected all the informations about the petitioner and conducted an enquiry. The fact remains that opportunity was granted to the petitioner, even during the enquiry and the petitioner has admitted certain facts. Thereafter, the Authorities took a decision and terminated the service of the petitioner. Hence, this Court does not find any infirmity in respect of the orders passed by the respondents.

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

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb



To

1.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul District.

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

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-14110[F] dated
24/03/2022)

+1 CC to M/s.SPL GP (SR-14505[F] dated 25/03/2022)

W.P. (MD) No.8562 of 2021

24.03.2022

RD(05/04/2022) 6P 5C