



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM

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

W.P. (MD) No.11548 of 2021

and

WMP (MD) Nos.9063 & 9065 of 2021

K.Sarathkumar

... Petitioner

-Vs-

1.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai - 600 002.

2.The Director General of Police,
Mylapore,
Chennai - 600 004.

3.The Superintendent of Police,
O/o.Superintendent of Police,
Madurai District,
Madurai.

4.The Inspector of Police,
Sholavanthan - Police Station,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceeding of the 3rd respondent RC.No.B1/013089/2020 dated on 05.10.2020 and quash the same as unconstitutional and consequently to direct the respondents to appoint the petitioner as a Grade-II Police Constable (AR), in the service of the Tamil Nadu Police Department within the time stipulated by this Court.

For Petitioner

: Mr.D.Balamurugapandi

For Respondents

: Mr.Veera Kathiravan,

Additional Advocate General

Assisted by

Mr.A.K.Manikkam

Spl.Govt.Pleader

**O R D E R**

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. 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 verification, the authorities competent found that a criminal case was registered against the writ petitioner and in the said case, the name of the petitioner was deleted. In respect of another case, an FIR in Crime No.184 of 2016 was registered for the offence under Sections 4AA(1a) of TNOPPD Act r/w Section 188 IPC. The said FIR was quashed in Crl.O.P(MD)No.18699 of 2019 dated 13.12.2019.

3. The learned Additional Advocate General brought to the notice of this Court that the petitioner has suppressed the fact regarding the registration of the criminal case during the verification before the competent authorities. 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 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. The candidates, who suppressed the fact regarding the registration of the criminal case is not eligible for selection. The Courts have repeatedly held that a person, who has suppressed the material fact, is not entitled to get any relief and he is not eligible for selection. This apart, the verification of antecedents, character and assessment of suitability and eligibility are the prerogative of the selection committee and the power of judicial review cannot be extended for the purpose of assessing the relative merits of the candidate, which is the subjective satisfaction of the authorities competent.

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

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

- 1.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai - 600 002.
- 2.The Director General of Police,
Mylapore,
Chennai - 600 004.
- 3.The Superintendent of Police,
O/o.Superintendent of Police,
Madurai District, Madurai.

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



4.The Inspector of Police,
Sholavanthan - Police Station,
Madurai District.

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-13834[F] dated
23/03/2022)

+1 CC to M/s.SPL GP (SR-14287[F] dated 24/03/2022)

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22.03.2022

KG (CO)
KB (31.03.2022) 5P 7C