



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.11377 of 2019

W.M.P (MD) .No.8667 of 2019

S.Vijayakumar

... Petitioner

Vs.

1.The Tamil Nadu Uniformed Services
Recruitment Board,
Rep.by its Vice Chairman,
Having Office at
Old Commissioner of Police Office Campus,
Pantheon, Egmore, Chennai-600 008.

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

3.The Deputy Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.

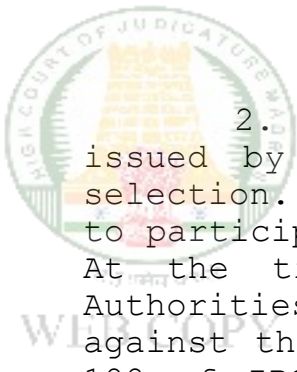
... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, calling for the records pertaining to the impugned proceedings of the third respondent dated 03.10.2017 in Na.Ka.No.B1/48723/2017, quash the same as unconstitutional and consequently, direct the respondents to consider the appointment of the petitioner as Grade-II Police Constable in service of the Tamil Nadu Police Department.

For Petitioner	:	Mr.S.Sukumar
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.



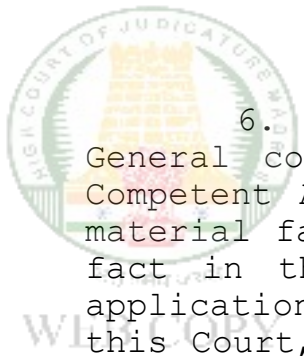
2. The petitioner, pursuant to the recruitment notification issued by the first respondent, participated in the process of selection. He was successful in the written examination and allowed to participate in the physical verification test and endurance test. At the time of verification of antecedents by the Competent Authorities, it was found that a criminal case was registered against the petitioner in Crime No.778 of 2015 under Sections 143, 188 of IPC and MCP Act and charge sheet was filed on 31.10.2015 before the learned Judicial Magistrate No.5, Madurai in S.T.C.No.55 of 2015.

3. The learned Additional Government Pleader brought to the notice of this Court that a warrant was issued against the petitioner on 09.10.2017 by the Criminal Court of Law. The petitioner submitted his application to participate in the process of selection on 10.02.2017 and on that day, a criminal case was pending against the petitioner.

4. The learned counsel appearing for the petitioner contended that the petitioner is an innocent person and he was not aware of these facts. Further, he has stated that the criminal case was quashed by this Court in CrI.O.P(MD).No.17040 of 2017 dated 14.12.2018. It is contended that the petitioner is a young person and therefore, a lenient view is to be taken as his ambitions are to be considered. The learned counsel appearing for the petitioner articulated his case by stating that the petitioner has not intentionally suppressed any fact and mistakenly, he would have omitted the fact regarding the registration of criminal case. Therefore, his case is to be considered.

5. This Court is of the considered opinion that the selection is for Uniformed Services. Uniformed Service personnels are maintaining the law and order in the Society, and handling arms and ammunition. Therefore, a person of integrity alone should be appointed as it involves implication in the Society. Verification of antecedents and character for Uniformed Services is of paramount importance. Recently, there are many incidents where Uniformed Service personnels are involving in crimes. When the Society is facing such a situation, selection must be further made in accordance with the Rules by verifying the antecedent and character of the persons. This apart, the suitability and eligibility is to be assessed by the Competent Authorities and it is an administrative prerogative. High Court is not an expert body in respect of assessment of such suitability and eligibility which is to be done based on various factors and circumstances. Therefore, once the Competent Authorities has formed an opinion that a particular candidate is not eligible and suitable for a particular post in Uniformed Services, the High Court is expected to be slow in interfering with such findings, unless the petitioner could able to establish that such decision is tainted with malafides or with

<https://hservices.courts.gov.in/hservices/>



6. In the present case, the learned Additional Advocate General contended that during the assessment of antecedents, the Competent Authorities found that the petitioner has suppressed the material fact in the application itself. When he has suppressed the fact in the application, it is sufficient enough to reject the application itself. Though the petitioner filed a petition before this Court, the criminal case was quashed only in the year 2018 and the petitioner submitted an application in the year 2017 itself. 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..."

xxxxxxxxxxxxxxxxxxxx

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



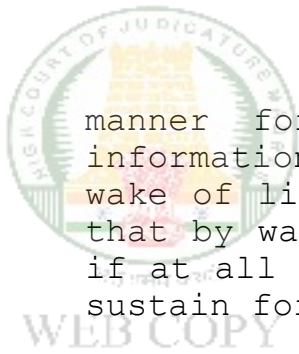
WEB COPY

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."

7. This being the factum, the petitioner is not entitled for any relief. This Court is of the considered opinion that the youth of this country are expected to be truthful to the society and atleast while submitting the application for recruitment to such public services, they must disclose the material facts in a correct



manner for assessment by the Authorities. By providing false information or in-correct information, they cannot succeed in their wake of life. Recording this fact, the petitioner should understand that by way of misrepresentation or false information or otherwise, if at all he could be able to secure public employment, they cannot sustain for a longer period.

8. This Court is of the considered opinion that verification of character and antecedent is of paramount importance and the assessment made in this regard by the Competent Selection Committee is 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 a criminal case, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioner.

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

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Vice Chairman,
The Tamil Nadu Uniformed Services
Recruitment Board,
Having Office at
Old Commissioner of Police Office Campus,
Pantheon, Egmore, Chennai-600 008.

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

3.The Deputy Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.

+1 CC to M/s.SPL.GP (SR-17921[F] dated 11/04/2022)

W.P. (MD) No.11377 of 2019

08.04.2022

KB(25.04.2022) 5P 5C