



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

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

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W.P.(MD) No.11802 of 2021

and

W.M.P.(MD) No.9265 of 2021

P.Arunkumar

... Petitioner

-Vs-

1. The Director General of Police,
Office of the Director General of Police,
Radhakrishna Salai, Mylapore,
Chennai.
2. The Chairman,
The Tamilnadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.
3. The Member Secretary,
The Tamilnadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.
4. The Superintendent of Police,
Madurai District,
Madurai.

... 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 proceedings issued by the 4th respondent in RC.No. B1/4339/2020-4 dated 28.06.2021 and quash the same and consequently direct the respondents to appoint the petitioner in the post of Police Constable Grade II on the basis of the Common recruitment 2019 provisional selection list published on 04.02.2020 forthwith.

For Petitioner : Mr.C.Jeganathan

For Respondent : 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 for appointment to the post of Grade-II Police Constable. He was successful in the written examination. He was allowed to participate in the physical verification test and endurance test. During the verification process, the Selection Committee found that the petitioner suppressed the fact regarding the registration of criminal case against him in Crime No.105 of 2018, for the offences under Sections 237 and 337 IPC. The petitioner has suppressed the said registration of the criminal case both in the application submitted pursuant to the Notification as well as during verification. Considering the fact that the petitioner has suppressed the fact regarding the registration of the criminal case, the order of rejection was passed.

3. The learned Additional Advocate General appearing for the respondents brought to the notice of this Court that the petitioner has suppressed the fact regarding the registration of the criminal case at the time of submission of application and at the time of verification of certificates. The petitioner was convicted and paid a fine amount of Rs.2000/- on 21.08.2018. Therefore, the candidature of the writ petitioner was rejected both on the ground of suppression of fact and also on the ground that he was convicted and paid the fine amount of Rs.2000/-. 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. A candidate, 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 petition is also dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK



To

1. The Director General of Police,
Office of the Director General of Police,
Radhakrishna Salai, Mylapore,
Chennai.
2. The Chairman,
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Chennai-600 008.
3. The Member Secretary,
The Tamilnadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.
4. The Superintendent of Police,
Madurai District,
Madurai.

+1 CC to M/s.C.JEGANATHAN, Advocate (SR-13794[F] dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-14248[F] dated 24/03/2022)

W.P. (MD) No.11802 of 2021

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RD(04.04.2022) 5P 7C