



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.11631 of 2020

W.M.P (MD) .Nos.10129 and 10130 of 2020

S.Muneeswaran

... Petitioner

Vs.

1 The Chairman
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T Lee Chengalvaraya Naicker Maligai,
Anna Salai, Chennai-600 002.

2 The Director General of Police,
O/o.Director General of Police Head Office,
Chennai-4.

3 The Superintendent of Police
Ramanathapuram District, Ramanathapuram.

4 The Inspector of Police
Nainarkovil Police Station,
Ramanathapuram District.

... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, to call for the entire records relating to the impugned order passed by the 3rd Respondent vide his proceedings in Na.Ka.No.A3/6816/2019-7 dated 18.5.2020 and to quash the same as illegal and further direct the Respondent Nos. 1 to 3 to provide appointment to the petitioner to the post of Grade-II Police Constable for common recruitment for the posts of Gr.II Police constable (Men Women and Transgender) Gr II Jail Warder (Men and Women) and Fireman (Men) for the year 2019 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik
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 and he was successful in the written examination. The petitioner was allowed to participate in the physical verification test and Endurance test. At the time of verification of antecedents, the Competent Authorities of the Police Department found that a criminal case was registered in Crime No.238 of 2016 for the offence under Sections 147, 294(b), 323 & 506(i) of IPC on 31.12.2016 against him.

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 in the application. Though the petitioner was acquitted on 09.03.2020, he was released on station bail on 31.12.2016. When the petitioner was released on station bail in the year 2016, the said factum regarding the registration of a criminal case was suppressed by the petitioner, at the time of submitting the application.

4. The learned Additional Advocate General brought to the notice of this Court that the suppression as well as the order of acquittal on benefit of doubt were considered by the Competent Authority for rejecting the candidature of the writ petitioner for selection to the post of Grade-II Police Constable. 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



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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."

5. 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.

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

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Chairman
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T Lee Chengalvaraya Naicker Maligai,
Anna Salai, Chennai-600 002.



2.The Director General of Police,
O/o.Director General of Police Head Office,
Chennai-4.

3.The Superintendent of Police
Ramanathapuram District, Ramanathapuram.

4.The Inspector of Police
Nainarkovil Police Station,
Ramanathapuram District.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-13654[F]
dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-14306[F] dated 24/03/2022)

W.P.(MD) No.11631 of 2020

22.03.2022

KG(CO)

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