



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM

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

WEB COPY

W.P.(MD) No.15514 of 2021

and

WMP(MD)No.12442 and 12445 of 2021

M.Kumar

... Petitioner

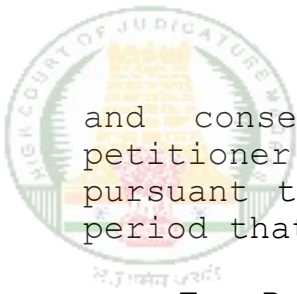
-Vs-

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Home Department,
Secretariat,
Chennai 600 009.
2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai - 8.
3. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai - 8.
4. The Director General of Police,
O/o. The Director General of Police,
Tamil Nadu,
Chennai - 600 004.
5. The Deputy Inspector General of Police,
O/o.The Deputy Inspector General of Police,
Tirunelveli Region,
Tirunelveli.
6. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 5th respondent in his proceedings Na.Ka.No.A2/4722/2021 dt. 19.08.2021 and quash the same as illegal

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



and consequently to direct the respondents to consider the petitioner for appointment to the post of Sub Inspector of Police in pursuant to the Notification No.2/2019 dated 08.03.2019 within the period that may stipulated by this Hon'ble Court.

For Petitioner : Mr.C.Venkatesh Kumar
For M/s.Ajmal Associates
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 Sub-Inspector of Police, is under challenge in the present writ petition.

2. The petitioner participated in the process of selection for appointment to the post of Sub-Inspector of Police. The petitioner is already working as Grade-II Police Constable in Tamil Nadu Police Service. He submitted his application under the departmental quota and was successful in the written examination. He was allowed to participate in the physical verification test and endurance test. The case of the writ petitioner was rejected on the ground that a criminal case was registered against the petitioner in Crime No.12 of 2017 under Sections 406, 498(A), 294(b) and 506(i) of IPC., but the petitioner has suppressed the factum of registration of criminal case at the time of submitting the application.

3. The learned Additional Advocate General for the respondents contended that the case of the petitioner was not considered mainly on the ground that the petitioner has suppressed the fact regarding the registration of the criminal case against him. 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:



WEB COPY

"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 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.



To

1. The Principal Secretary,
State of Tamil Nadu,
Home Department,
Secretariat,
Chennai 600 009.

2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai - 8.

3. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai - 8.

4. The Director General of Police,
O/o. The Director General of Police,
Tamil Nadu,
Chennai - 600 004.

5. The Deputy Inspector General of Police,
O/o. The Deputy Inspector General of Police,
Tirunelveli Region,
Tirunelveli.

6. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

+1 CC to M/s.C.Venkatesh Kumar (AJMAL ASSOCIATES), Advocate
(SR-13674[F] dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-14252[F] dated 24/03/2022)

W.P.(MD) No.15514 of 2021
22.03.2022

KG(CO)

GC(31.03.2022) 5P 9C