



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16579 of 2020

P.Magesh

... Petitioner

Vs.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

3.Tamil Nadu Uniformed Services Recruitment Board,
Rep.by its Member Secretary,
Pantheon Road, Egmore,
Chennai-600 008.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in C.No.A4/10075/2019 dated 27.08.2020, quash the same and consequently direct the second respondent to pass order to appointing the petitioner (Enrolment No.3203852) as Grade -II Police Constable under the Tamil Nadu Special Police Subordinate Service Rules as recruited during the year 2019 and treat his appointment at par with 2019 batch-mates with all consequential service benefits by invoking the Explanation (2) given under the Rule 13 of Tamil Nadu Special Police Subordinate Service Rules.

For Petitioner	:	Mr.K.K.Samy
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.

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2. The petitioner participated in the process of selection and he was successful in the written examination. The petitioner was allowed to participate in the physical verification test and Endurance test. A criminal case was registered against the petitioner in Crime No.316 of 2016 for the offence under Sections 147, 148, 294(b) and 506(ii) of IPC on 14.08.2016. The petitioner was acquitted on the ground of benefit of doubt.

3. However, the fact remains that the petitioner suppressed the fact regarding the registration of criminal case in the application, but informed the same during the verification. Therefore, the Competent Selection Committee, during the verification and character of antecedent, found that the same is no satisfactory. Suppression of fact regarding the registration of a criminal case at the time of submission of application was taken into consideration by the Selection Committee and further, the order of acquittal was on benefit of doubt. Taking overall the facts and circumstances, the Selection Committee rejected the candidature of the petitioner. Hence, the High Court cannot interfere with the decision of the Selection Committee in a routine manner. 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. 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.

5. Accordingly, the Writ Petition stands dismissed. No costs.
Sd/-

Assistant Registrar (T&P)

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/ /2022
Sub Assistant Registrar(CS)

ssb

To

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Superintendent of Police,
Nagercoil,
Kanyakumari District.



3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.K.SAMY, Advocate (SR-14464[F] dated 25/03/2022)

+1 CC to M/s.SPL GP (SR-14905[F] dated 28/03/2022)

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MGJ(04.04.2022) 5P 7C