



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 12.04.2022
DELIVERED ON : 20.04.2022
CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.17769 of 2019

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S.Ramesh

...Petitioner

/Vs./

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

2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai,
Chennai-600 002.

3.The Superintendent of Police,
Ramanathapuram
Ramanathapuram District.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order in C.No.A3/29569/2017 dated 24.04.2018 on the file of the third respondent and quash the same as illegal and unconstitutional and in consequence direct the second respondent to consider the representation dated 05.03.2019 for issuing appointment order to the petitioner for selection of Police Constable Grade-II in Tamil Nadu Special Police.

For Petitioner	: Mr.V.Muniasamy
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 participated in the process of selection, pursuant to the recruitment notification issued for selection to the post of Grade-II Police Constable. The petitioner was successful in the written examination and he participated in the physical



verification test and endurance test. However, his candidature was rejected by the respondents on the ground that the petitioner has suppressed the fact regarding the registration of criminal case against him. The petitioner suppressed the fact while submitting the application pursuant to the recruitment notification. Earlier, the writ petitioner filed W.P.(MD).No.20158 of 2017 and this Court passed an order on 11.01.2018 remanding the matter back to consider the case of the petitioner afresh within a period of 12 weeks. Accordingly, the respondents have re-considered the case of the petitioner and passed the impugned proceedings dated 24.04.2018.

3. The learned counsel appearing for the petitioner reiterated that the criminal case and the nature of offence are trivial in nature. The petitioner was acquitted honourably in the criminal case on 28.08.2017. Therefore, the case of the petitioner is to be considered.

4. The learned Additional Advocate General appearing for the respondent objected the said contention by stating that the case of the petitioner was re-considered with reference to the facts and circumstances of the case. Suppression of material fact regarding the involvement of the petitioner in the criminal case itself is a ground for rejection of his application. He has suppressed the said fact in the application itself. This apart, the criminal case was ended with an order of acquittal on account of the fact that the witnesses turned hostile. While filling up the OMR application and Police Verification Roll forms, the petitioner has suppressed the above material facts. Therefore, the candidature of the petitioner is liable to be rejected as per Rule 14(b)(ii) & (iv) of Tamil Nadu Special Police Sub-ordinate Service Rules.

5. This Court is of the considered opinion that the assessment of eligibility and suitability based on the character and antecedent by the Competent Selection Committee is of paramount importance. There cannot be any compromise in selection for Uniformed Services as the Uniformed Service personnels are dealing with arms and ammunitions, and responsible for maintaining the law and order in the Society. While verifying the character and antecedent, if the Authorities found that the candidate is not suitable and eligible for appointment, then the said decision became final and the judicial review under Article 226 of the Constitution of India in the matter of selection is limited. 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 Commission*⁷ held as follows:

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"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.

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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."

6. In the present case, the petitioner, admittedly, has involved in the criminal case. However, he was acquitted from the criminal case. The fact remains that he has suppressed the fact regarding the registration of criminal case even at the time of filing the application. Further, the acquittal order was passed on account of the fact that the witnesses turned hostile. Therefore, the petitioner is not qualified even as per the Rules in-force. Thus, there is no infirmity or perversity in respect of the reasons for non-selection of the petitioner for appointment to the post of Grade-II Police Constable.

7. Accordingly, this Writ Petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (W)

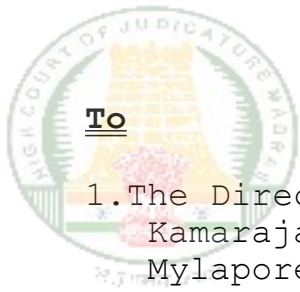
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Sub Assistant Registrar(CS)

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



To

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

2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai,
Chennai-600 002.

3.The Superintendent of Police,
Ramanathapuram
Ramanathapuram District.

+1 CC to M/s.V. MUNIA SAMY, Advocate (SR-19643[F] dated
20/04/2022)

+1 CC to M/s.SPL.GP (SR-20126[F] dated 21/04/2022)

W.P.(MD)No.17769 of 2019
20.04.2022

_RD(28.04.2022) 5P 6C