



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

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

W.P.(MD) No.17040 of 2021

and

W.M.P.(MD) No.13971 and 13972 of 2021

S.Jeyachandran

... 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,
Dindigul Region,
Dindigul District.
6. The Superintendent of Police,
Theni District,
Theni.

...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 relating to the impugned order passed by the 5th respondent in his proceedings Na.Ka.No.A1/4046/570/2021 dated 02.09.2021 and quash the same as illegal and consequentially 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 be stipulated by this Court.

For Petitioner

: Mr.C.Venkatesh Kumar
For M/s.Ajmal Associates

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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.

3. However, 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 a criminal case against him in Crime No.187 of 2011 for the offence under Section 309 IPC., on 17.04.2011. 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

the recommendations of the Selection



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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. Though the learned counsel for the petitioner made a submission that the criminal case is ended in an order of acquittal, the acquittal is on the ground of benefit of doubt and therefore, the Authority made an assessment with reference to the antecedents of the petitioner and accordingly rejected the candidature of the petitioner. Beyond the acquittal in a criminal case, the petitioner suppressed the fact regarding the registration of a criminal case against him in the application. Suppression of material fact is a ground to reject the application itself. The principles in this regard are settled by the Hon'ble Apex Court of India. The petitioner being an in-service candidate and working as Grade - II constable had suppressed the fact regarding registration of criminal case against him in his application. This being the factum, the petitioner is not entailed for the relief.

5. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

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

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



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

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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,
Dindigul Region,
Dindigul District.

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

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

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-13682[F] dated
23/03/2022)

+1 CC to M/s.SPL GP (SR-14296[F] dated 24/03/2022)

W.P.(MD) No.17040 of 2021
22.03.2022

MGJ(30.03.2022) 5P 10C