



WEB COPY

W.P.(MD) No.17898 of 2021

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.17898 of 2021

and

W.M.P.(MD) No.14765 of 2021

V.Muthu Selvam

... Petitioner

-Vs-

1. The Director General of Police,
Tamil Nadu Police (Uniform) Service,
Post Box.No.601, Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.
2. The Inspector General of Police / The Member Secretary,
Tamil Nadu Police (Uniform) Service Recruitment Board,
Egmore,
Chennai - 08.
3. The Deputy Inspector General of Police,
Tamil Nadu Police (Uniform) Service,
Madurai - Zone, Madurai District.
4. The Superintendent of Police,
Madurai District,
Madurai.

... 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 of the 3rd respondent in his proceedings in Order No. Na.Ka.No.(A3)/1310652/2021 dated 05.08.2021 and quash the same as illegal and consequently direct the 3rd respondent to appoint the petitioner in the Sub Inspector of Police Service.

For Petitioner : Mr.V.Balasubramanian

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.

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



2. The petitioner participated in the process of selection for recruitment to the post of Sub-Inspector of Police. He was successful in the written examination. He was allowed to participate in the physical verification test and endurance test. However, during the verification of antecedents, the competent Selection Committee found that the petitioner suppressed the fact regarding the registration of the criminal case against him both in the application and during verification of documents.

3. The learned Additional Advocate General brought to the notice of this Court that the petitioner has suppressed the fact regarding the registration of the criminal case at the time of submitting the application and during the verification before the competent authorities. The petitioner being a convicted person, is not entitled for selection to the post of Sub-Inspector of Police 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:

"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. The criminal case was registered against the writ petitioner in Crime No.623 of 2016 for the offence under Sections 294(b), 341, 324, 355 and 506(ii) of IPC. The criminal case was compromised and based on the compromise it was quashed in Crl.O.P (MD)No.14974 of 2018, dated 24.08.2018. The petitioner submitted an application dated 12.04.2019 and the fact regarding the registration of the criminal case was suppressed. A mere compromise in a criminal case and quashed on the basis of such compromise is not a ground to seek a direction to select the petitioner for appointment to the post of Sub-Inspector of Police. The learned counsel for the petitioner relied on the Judgment of Hon'ble Supreme Court of India in the case of **Umesh Chandra Yadav Vs. The Inspector General and Chief Security Commissioner, R.P.F.Northern Railway, New Delhi & Others** reported in **(2022 Live Law (SC) 300)**, wherein in para 38.1 itself has settled the principles by stating as follows:-

"38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information."

5. The learned counsel for the petitioner also referred para 38.11 of the said Judgment, which reads as under:-

"38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him."

6. Even with reference to the said paragraph knowledge of the fact must be attributable against the petitioner. In the present case, the petitioner entered into a compromise and based on the compromise, he filed a petition in Crl.O.P(MD)No.14974 of 2018 to quash the crime number registered against him and the same was quashed. However, the petitioner filed an application on 12.04.2019 well after the filing of the quash petition before the High Court and therefore, the petitioner had clear knowledge about the criminal case at the time of filing of the application and thus, the said judgment is of no avail to the petitioner. Contrarily, the Judgment and principles laid down it goes against the writ petitioner as the principles are reiterated by the Apex Court in humpty number of Judgments..

7. A candidate, who suppressed the fact regarding the registration of the criminal case, is not eligible for selection. The Hon'ble Courts have repeatedly held that a person, who has suppressed



the material fact, is not entitled to get any relief and he is not eligible for selection. This apart, the verification of antecedents, character and assessment of suitability and eligibility are the prerogative of the selection committee and the power of judicial review cannot be extended for the purpose of assessing the relative merits of the candidate, which is the subjective satisfaction of the authorities competent.

8. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

MPK

To

1. The Director General of Police,
Tamil Nadu Police (Uniform) Service,
Post Box.No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
2. The Inspector General of Police / The Member Secretary,
Tamil Nadu Police (Uniform) Service Recruitment Board,
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3. The Deputy Inspector General of Police,
Tamil Nadu Police (Uniform) Service,
Madurai - Zone, Madurai District.
4. The Superintendent of Police,
Madurai District, Madurai.

+1 CC to M/s.SPL GP (SR-14276[F] dated 24/03/2022)

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