



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

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

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W.P.(MD) No.17792 of 2021

and

W.M.P.(MD) No.14666 of 2021

M.Prabu

... Petitioner

-Vs-

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2. The Director General of Police,
O/o. The Director General of Police,
Chennai -4.

3. 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 pertaining to the Impugned order in RC.No.B1/04339/2020 dated 28.10.2020 passed by the Respondent No.3 and quash the same and for consequential direction, directing the Respondents to appoint the petitioner (Registration Number.2414425) as Grade-II Constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2019 forthwith.

For Petitioner

: Mr.R.Venkatesan

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 Grade-II Police Constable is under challenge in the present writ petition.



2. The petitioner participated in the process of selection for appointment to the post of Grade-II Police Constable. He was successful in the written examination. He was allowed to participate in the physical verification test and endurance test. However, during the verification the authorities found that a criminal case in Crime No.263 of 2016 was registered against the writ petitioner for the offence under Sections 324 and 506(ii) of IPC., and the same was entered into a compromise and based on the compromise, it was quashed in Crl.O.P.(MD)No.7353 of 2017 dated 12.06.2017.

3. The learned counsel for the petitioner reiterated by stating that the petitioner was selected for appointment to the post of Grade-II Police Constable in the year 2017 itself, however, he was not appointed due to involvement of a criminal case. Even in 2018, the petitioner was selected and on the same ground of involvement in the criminal case once again he was rejected. In the present selection also the petitioner was successful in the examination and his candidature was rejected on the ground of registration of a criminal case.

4. The learned Additional Advocate General appearing for the respondents would submit that 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:

"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

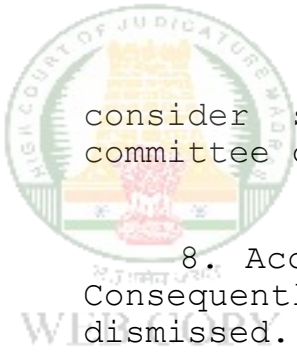


generalizations, leading to condonation of the offender's conduct, should not enter the judicial verdict and should be avoided. Certain types of offences, like molestation of women, or trespass and beating up, assault, causing hurt or grievous hurt, (with or without use of weapons), of victims, in rural 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."

5. I have heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents.

6. This Court is of the considered opinion that repeated rejection of the candidature based on the criminal case is one aspect of the matter. Assessment of the relative merit, verification of antecedents, character and suitability and eligibility are the other issues involved in the matter of selection for uniformed services. Therefore, mere rejection on the same ground may not be an acceptable one for the purpose of issuing a direction to select and appoint a person to uniformed services. High Court cannot issue any such direction to select and appoint a person, more specifically, in uniformed services. The opinion and the decision of the Selection Committee become final and entertaining the writ petition is to be made only if such selection is tainted with malafides or an allegation of fraud or corrupt activities are established, but not otherwise. The verification of antecedent is of paramount importance. The police personnel are handling arms and ammunition. Their responsibility to maintain law and order in the society is of vital. Therefore, the good conduct, behavioral attitude, antecedents, suitability, eligibility are of most important, more specifically, for recruitment in uniformed services. Therefore, repeated selection cannot be a ground to entertain a writ petition or to grant the relief to direct the respondents to select the petitioner.

7. In the present case, the learned Additional Advocate General made a submission that no doubt the petitioner has stated about the criminal case in the application, however, his candidature was rejected mainly on the ground that a criminal case was compromised and based on the compromise it was quashed in CrI.O.P.(MD)No.7353 of 2017. Therefore, the Authorities / Selection Committee formed an



consider selection. Such a decision taken by the selection committee cannot be interfered with by the High Court.

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

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

MPK

To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.
2. The Director General of Police,
O/o. The Director General of Police,
Chennai -4.
3. The Superintendent of Police,
Madurai District,
Madurai.

+1 CC to M/s.R.VENKATESAN, Advocate (SR-14026[F] dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14299[F] dated 24/03/2022)

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RD(05.04.2022) 5P 6C