



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.19161 of 2019

W.M.P (MD) .No.15526 of 2019

R.Sabarish

... Petitioner

Vs.

1.The Director,
Tamil Nadu Fire and Rescue Services Department,
No.17, Rukmani Lakshmipathy Salai,
Chennai-600 008.

2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-08.

3.The Chairman/Member,
Recruitment Sub-Committee,
Thoothukudi Centre,
Thoothukudi District.

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

... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari/Mandamus, calling for the records of the impugned order passed by the first respondent in Na.Ka.No.306/Aa.1/2018 dated 25.07.2019 and quash the same as illegal and for consequential direction to the respondents to permit the petitioner to participate in the training and subsequently appoint the petitioner as Grade-II Police Constable/Grade-II Jail Warden and Fireman in the selection process for the year 2017-18.

For Petitioner	:	Mr.L.George Paul Anto
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 posts of Grade-II Police Constable, Grade-II Jail Warden and Fireman is under challenge in the present Writ Petition.

2. Pursuant to the recruitment notification issued by the respondents, the petitioner participated in the process of selection for appointment to the posts of Grade-II Police Constable, Grade-II Jail Warden and Fireman. The petitioner was successful in the written examination and participated in the physical verification test and endurance test.

3. The learned Additional Advocate General made a submission that the petitioner has suppressed the fact regarding the registration of criminal case against him in Crime No.820 of 2015 under Section 75 of Tamil Nadu City Police Act. He paid the fine amount of Rs.750/-. However, the facts were not disclosed in the application submitted by the petitioner. Only during verification, the petitioner informed about criminal case and therefore, the Authorities found that suppression is a ground for rejecting the candidature. 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. Even in respect of trivial offences, if a person suppressed the material facts in the application, it is a ground for rejection of application itself. The Hon'ble Supreme Court of India in many number of judgments held that the candidates, who have suppressed the fact in the application itself, are not entitled for any relief and such applications are liable to be rejected on the threshold. Providing of true information in the application is of paramount importance. Incorrect details or suppression of details would result in wrong selection. That is the reason why the applications are rejected on the ground of suppression of fact. The selections are to be conducted strictly in accordance with the procedures. Now, on account of unemployment issues in our country, even for small number of posts, huge number of applications are received by the Recruitment Board. They are in the process of scrutinisation. Previously, the selection was based on a particular criteria. Now, the elimination is the point for selection. This being the development in the selection process across the Country, this Court is of the opinion that the candidates, who suppressed the material facts in the application, are not entitled for the relief. Verification of character and antecedent is of paramount importance and the assessment made in this regard by the Competent Selection Committee is 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 a 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. Consequently, connected miscellaneous petition is closed.

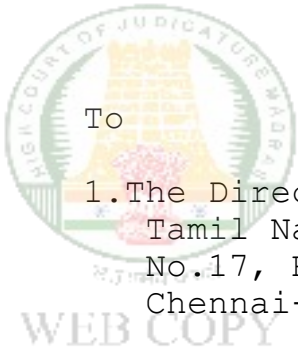
Sd/-

Assistant Registrar (AD-I)

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/ /2022

Sub Assistant Registrar(CS)



To

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+1 CC to M/s.SPL.GP (SR-17916[F] dated 11/04/2022)

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SG (CO)

KB (22.04.2022) 5P 6C