



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.19663 of 2020

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Anantharaj

... Petitioner

Vs.

- 1 The Director General of Police,
State of Tamil Nadu, Chennai.
- 2 The Superintendent of Police
Ramanathapuram District, Ramanathapuram.
- 3 The Secretary
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai- 600 008.

... 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 2nd respondent in Na.Ka.A3/6816/2019-5 dated 19.05.2020 and quash the same and consequently directing the respondents to appoint the petitioner as grade II Police Constable in pursuant to the Provisional Selection List(Registration No.280409).

For Petitioner :	Mr.S.Deenadhayalan
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 recruitment 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 and he was successful in the written examination. The petitioner was allowed to participate in the physical verification test and Endurance test. At the time of submission of the application, there was no criminal case against the petitioner. However, during the process of selection, a criminal case was registered against the petitioner in Crime No.17 of 2020 for the offence under Sections 147, 148, 294(b), 323, 324, 506(ii) of IPC and 4 of Tamil Nadu



Prohibition of Harassment of Women Act, on 02.02.2020. The petitioner was arrested on 02.02.2020. However, the said case ended in compromise. Accordingly, the criminal proceedings is quashed in CrI.O.P(MD).No.3305 of 2020 dated 05.03.2020 by this Court.

3. Though the petitioner has not suppressed the fact at the time of submission of the application as there was no criminal case, when the process of selection is finalised, a criminal case was registered against the petitioner and ended in compromise. Subsequently, it was quashed. However, mere acquittal or compromise in a criminal case is not a ground for selection to the post of Grade-II Police Constable. Ultimately, the verification of antecedents, assessment of suitability and eligibility are of paramount importance and the assessment in this regard made by the committee became final. High Court cannot interfere with the merits assessed by the Competent Committee. A writ against the process of selection is to be entertained in a limited manner and if the selection is tainted with malafide or an allegation of fraud or corrupt activities is found, then only, the High Court can interfere with the process of selection but not otherwise. High Court, by exercising the power of judicial review, cannot decide the merits or otherwise, which is the subjective satisfaction of the Competent Selection Committee.

4. Therefore, this Court is of the considered opinion that the petitioner has involved in the criminal case subsequently after filing of the application and though he has disclosed, that will not prevent the Authorities from assessing the eligibility of the candidate for recruitment to the post of Grade-II Police Constable. 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



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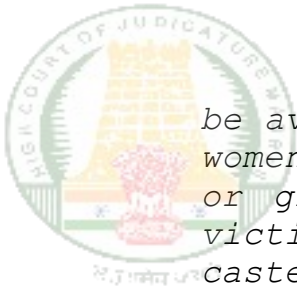
Committee like the court of appeal. This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine the selection of the candidates nor is the business of the court to examine each candidate and record its opinion...

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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."

5. This being the factum, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioner.

6. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

- 1 The Director General of Police,
State of Tamil Nadu, Chennai.
- 2 The Superintendent of Police
Ramanathapuram District, Ramanathapuram.
- 3 The Secretary
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Old Commissioner of Police Office Campus,
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+1 CC to M/s.SPL GP (SR-14244[F] dated 24/03/2022)

W.P.(MD) No.19663 of 2020
22.03.2022

KG(CO)

TR(05.04.2022) 4P 5C