



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.20365 of 2021

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S.Mathar Sahib

... Petitioner

vs.

1.The Director General of Police
Mylapore, Chennai

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

3.The Superintendent of Police
Ramanathapuram District
Ramanathapuram

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records on the files of the 3rd respondent pertaining to the order bearing C.No.A4/6816/2019 dated 15.09.2021 and to quash the same and consequently direct the respondents to appoint the petitioner as Grade-II Police constable (Men Women and Third Gender) Grade-II Jail Warders (Men and Women) and firemen.

For Petitioner : Mr.Aayiram K.Selvakumar

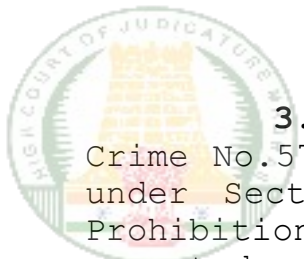
For Respondents : Mr.Veera Kathiravan

Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The order of rejection, dated 15.09.2021, passed by the third respondent, rejecting the candidature of the petitioner for recruitment to the post of Grade-II Police Constable, is under challenge in this writ petition.

2. The petitioner participated in the process of selection for recruitment to the post of Grade-II Police Constable and he was successful in the written examination and allowed to participate in the physical verification test and endurance test.



3. A criminal case was registered against the petitioner in Crime No.57 of 2019, on the file of Thiruppalaikudi Police Station, under Sections 294(b), 323 I.P.C., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. The petitioner was arrested on 18.05.2019. Subsequently, the case was ended in compromise and based on the compromise, CrI.O.P.(MD) No.15485 of 2019 filed by the petitioner was allowed on 24.10.2019.

4. The learned Additional Advocate General made a submission that the petitioner suppressed the material fact during verification. This apart, the case ended in compromise and the petitioner involved in serious offences. The allegation against the petitioner in the criminal case was also serious in nature. Therefore, the Selection Committee at the time of considering the facts and circumstances, found that the character and antecedents of the petitioner are not satisfactory. Further, suppression of material facts regarding registration of criminal case during verification was also considered by the Selection Committee.

5. This Court is of the considered opinion that nature of dispute is immaterial as far as the selection process is concerned. High Court cannot go into the nature of allegations in a criminal case as the decision of the Selection Committee in this regard became final.

6. Even recently, the Honourable Supreme Court of India in the case of **Commissioner of Police vs. Raj Kumar**, by Judgment dated 25.08.2021, passed in C.A.No.4960 of 2021, has 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 Commission [(2008) 2 SCC 119] 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



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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."

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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."

7. This Court is of the considered opinion that the verification of suitability, eligibility and antecedents of the candidates are of paramount importance. The decision of the Selection Committee in this regard becomes final. High Court cannot interfere with the decision of the Selection Committee regarding the assessment of suitability, eligibility and verification of the antecedents. Hence, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioner.

8. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

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/ /2022

Sub Assistant Registrar(CS)

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To:

- 1.The Director General of Police, Mylapore,
Chennai.
- 2.The Member Secretary,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore, Chennai-8.
- 3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 4 The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AAYIRAM K SELVAKUMAR, Advocate (SR-14674[F] dated
25/03/2022)

+1 CC to M/s.SPL GP (SR-14856[F] dated 28/03/2022)

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MK/30.03.2022/5P/7C