



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.04.2022

DELIVERED ON : 20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.22415 of 2019

WEB COPY

P.Manikandan

... Petitioner

/Vs./

1.Tamil Nadu Uniformed Services Recruitment Board,
Rep.by its Chairman,
No.807, P.T.Lee, Chengalvaraya Naicker Maligai,
Anna Salai,
Chennai-2.

2.The Superintendent of Police,
Madurai District,
Madurai.

3.The Inspector of Police,
Melur Police Station,
Madurai District.

... Respondents

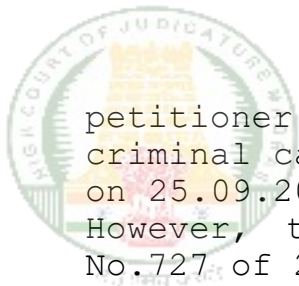
PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in R.C.No.B1/19500/2012 dated 22.05.2018 on the file of the respondent No.2 and quash the same as illegal and consequently for a direction, directing the respondent Nos.1 and 2 to appoint the petitioner in the post of Grade-II Police Constable within the time period stipulated by this Court.

For Petitioner	: Mr.T.Aswin Rajasimman for Mr.T.Lajapathi Roy
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 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. Thereafter, he participated in the physical verification test and endurance test. During verification, the Competent Authorities found that the



petitioner suppressed the fact regarding his involvement in the criminal case. The petitioner, at the time of filing the application on 25.09.2012, stated that no criminal case was pending against him. However, the criminal case was registered subsequently in Crime No.727 of 2012 by Melur Police Station, Madurai.

WEB COPY

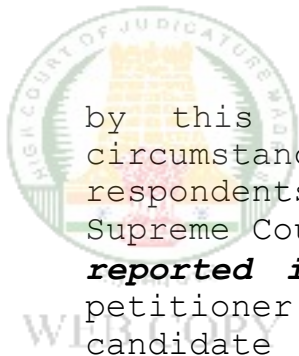
3.The learned counsel appearing for the petitioner mainly contended that the petitioner is no way connected with the criminal case registered against him. In the criminal case, the name of the writ petitioner's father was stated as Pandi. However, the name of the petitioner's father is Pandiyan. Therefore, the petitioner states that he is not the accused Manikandan as stated in the criminal case. In other words, it is contended that the name of the writ petitioner's father in the criminal case has been stated as Pandi and the name of the petitioner's father is Pandiyan. Therefore, he has not involved in any criminal case and instead of another Manikandan, he was wrongly implicated as he is no way connected with the criminal case.

4.To rebut the above contention raised on behalf of the petitioner, the learned Additional Advocate General reiterated that the petitioner participated in the whole trial before the Criminal Court of Law. Even during the investigation, the Police Authorities found that the petitioner has involved in a criminal case. In order to escape from the stigma, the petitioner has made a defence that the father's name is different and therefore, he is not the accused in the criminal case. If at all the petitioner is not the accused in the criminal case, he ought not to have participated in the entire trial and he should have filed a petition before the Competent Court at the initial stage itself. Contrarily, he had participated in the criminal case and therefore, the said defence now taken in the writ petition deserves to be rejected.

5.Beyond the above facts, the learned Additional Advocate General contended that the petitioner has suppressed the fact regarding his involvement in the criminal case, during verification and while filling the verification form. Suppression of material fact is also a ground to reject the candidature. Thus, for all these reasons, the order impugned is in accordance with the Rules in-force and the writ petition is to be rejected.

6.The order impugned reveals that due to the involvement in the criminal case and based on the suppression of fact regarding his involvement in the criminal case at the time of verification, the respondents have rejected the candidature of the petitioner in proceedings dated 23.12.2012, as per Rule 14(b)(iv) of the Tamil Nadu Special Police Subordinate Service Rules. The petitioner earlier filed W.P(MD).No.5717 of 2013 and this Court directed the respondents to verify the character and antecedent of the writ petitioner with relevant documents available and take appropriate

<https://hccservices.scc.gov.in/hccservices/>

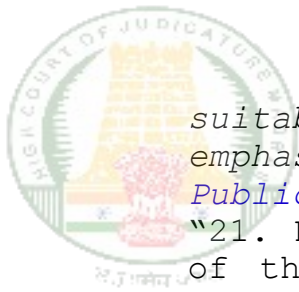


by this Court, the respondents have verified the facts and circumstances relating to the case of the petitioner. The respondents have considered the principles laid down by the Hon'ble Supreme Court of India in the case of **Avtar Singh vs. Union of India reported in 2016 8SCC 471**. The respondents found that the writ petitioner namely Mr.P.Manikandan (Registration No.2406356) is the candidate provisionally selected for appointment to the post of Grade-II Police Constable (AR) for the year 2012 subject to police Verification and medical examination. While conducting police verification, it was found that the petitioner had involved in a criminal case in Crime No.727 of 2012 under Sections 147, 148, 294 (b) and 506(ii) of IPC and the petitioner was arrayed as accused No.2. The petitioner got anticipatory bail from the Court. If at all the petitioner found that he is not the accused person, he ought not to have filed a petition for anticipatory bail. This apart, a charge sheet was filed on 06.08.2013 before the Judicial Magistrate, Melur, which is taken on file in C.C.No.121 of 2016 on 05.12.2016. The petitioner participated in the trial and the criminal case was ended with an order of acquittal. However, after his provisional selection, the petitioner has furnished the following details before the Authorities as follows:-

- 15.Have you ever been concerned in any criminal case as defendant? : No
- 18.Are there any civil or criminal cases pending against you. : No

7.With reference to the above material information given by the petitioner during verification, it is crystal clear that the petitioner has suppressed the fact regarding his involvement in the criminal case in his application. Thus, the Authorities formed an opinion that the petitioner had wantonly suppressed the vital information with reference to his involvement in the criminal case and has given a false declaration for the purpose of securing appointment to the post of Grade-II Police Constable. Thus, the Selection Committee formed an opinion that the petitioner is not suitable and eligible for selection and appointment to the post of Grade-II Police Constable and the decision is based on sound reasoning and there is no infirmity or perversity as such. 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 Commission*⁷ held as follows:

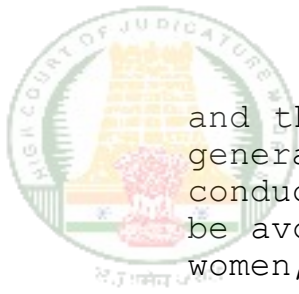
"21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine the recommendations 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...

xxxxxxxxxxxxxxxxxxxx

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."

8.This Court is of the considered opinion that the verification of suitability, eligibility and antecedents 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. Once it is found that the petitioner has involved in criminal case, this Court do not find any infirmity in respect of the order impugned rejecting the candidature of the petitioner.

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

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.Tamil Nadu Uniformed Services Recruitment Board,
Rep.by its Chairman, No.807, P.T.Lee,
Chengalvaraya Naicker Maligai, Anna Salai, Chennai-2.

2.The Superintendent of Police,
Madurai District, Madurai.

3.The Inspector of Police,
Melur Police Station, Madurai District.

+1 CC to M/s.SPL.GP. (SR-18835[F] dated 13/04/2022)

W.P. (MD)No.22415 of 2019
20.04.2022

RS (11.05.2022) 5P-5C

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