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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4314/2020

MANOJ KUMAR
S/O. SRI KAILASH CHANDRA, VILL. HIMMATPUR UJIYARI, P.O. GHIROR,
P.S. GHIROR, DIST. MAINPURI, UTTAR PRADESH, PIN-205121.

VERSUS

THE UNION OF INDIA AND 3 ORS
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, NEW DELHI-110001.

2:SASHASTRA SEEMA BAL
REP. BY ITS DIRECTOR GENERAL
EAST BLOCK
R. K. PURAM
NEW DELHI
PIN-110066.

3:THE DY. INSPECTOR GENERAL -SHQ- SSB TEZPUR

DIST. SONITPUR
ASSAM
PIN-784501.

4:THE COMMANDANT

61ST BN SSB
BHAIRABKUNDA
DIST. UDALGURI
ASSAM
PIN-784513

Advocate for the Petitioner : MR. S MUKTAR, MR A N IQBAL

Advocate for the Respondent : ASSTT.S.G.I., MR. S K MEDHI,MR. A K DUTTA

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

JUDGMENT & ORDER (ORAL)

Date : 10-09-2024

Heard Mr. S. Muktar, learned counsel appearing for the writ petitioner. Also heard Mr. A.K. Dutta, learned CGC appearing for the respondents.

2. This writ petition is directed against the order dated 24-08-2016 issued by the Commandant, 61st Bn. Sashastra Seema Bal (SSB), Bhairabkunda, Assam terminating the services of the writ petitioner as Constable (Driver) in the SSB. It appears that pursuant to a selection process, the writ petitioner was appointed as Constable (Driver) in the SSB on 24-06-2013. One of the essential conditions of appointment as per the Rules was that the incumbent had to fill up an enrolment form at the time of joining the service. It is mentioned in the enrolment form that if any false information is furnished against any of the 12 (twelve) questions mentioned therein, then the employee would be liable to be punished as per the provisions of SSB Act, 2007. In question No. 7, a query was made as to whether the petitioner was married. In response to the said question, he had mentioned 'No'. However, the fact remains that on the date of filling up the enrolment form, the petitioner was not only married to one Smti. Puja Kumari but he also had a minor son. Notwithstanding the same, false information pertaining to his marriage was furnished by the writ petitioner in the enrolment form. Not only that, a criminal case

numbered and registered as Case No. 151/2013 under Sections 498A/ 323/ 506/ 494 of IPC read with Section 3/ 4 of the Dowry Prohibition Act was also pending against the petitioner in the court but he did not furnish any information to the authorities about the said case.

3. The respondents came to know about the factum of marriage of the petitioner as well as the pendency of the criminal case only upon receipt of communications submitted by Sri Vasudev Singh, i.e. the father-in-law of the petitioner. On receipt of such information, a show-cause notice dated 02-08-2016 was served upon the petitioner calling upon him to show cause as to why, his services should not be terminated on account of commission of the misconduct of furnishing false declaration at the time of submission of enrolment form. Upon receipt of the show-cause notice, the petitioner had submitted his reply on 05-08-2016. However, not being satisfied with the reply, the impugned order dated 24-08-2016 was issued by the respondent No. 4 terminating the services of the petitioner. Thereafter, the writ petitioner had preferred an appeal before the Deputy Inspector General of Police, SHQ, SSB, Tezpur against the order dated 24-08-2016. However, the appeal preferred by the writ petitioner was also rejected by the order dated 30-09-2016. Hence, this writ petition.

4. Referring to the materials available on record, Mr. S. Muktar, learned counsel for the writ petitioner has submitted that although the information furnished by the writ petitioner in the enrolment form pertaining to question No. 7 was not correct, yet, it was not a case of willfully furnishing false information as the writ petitioner had nothing to gain by making a false declaration. Mr. Muktar submits that since the writ petitioner was

not in possession of any documents to establish his marriage and the birth of his son, hence, he had mentioned 'No' in the enrolment form in response to the query No. 7.

5. Coming to the question of non-disclosure of pendency of criminal case before the Mainpuri Court, here also, Mr. Muktar has argued that since there was no stay order operating in that case, hence, the petitioner did not inform the authorities. However, once a stay order was passed suspending the proceeding, the matter was promptly brought to the notice of the authorities. According to Mr. Muktar, the writ petitioner had also been acquitted in the aforesaid criminal case. To sum up his argument, Mr. Muktar, learned counsel for the petitioner has submitted that it was owing to an erroneous understanding of facts and the implication thereof that the writ petitioner had committed the mistake of not declaring the correct facts. Since it is not a case of willful default with malafide intent to gain undue favour, hence, submits Mr. Muktar the order of termination from service be set aside and the petitioner be reinstated in the service.

6. Opposing the said submission, Mr. A.K. Dutta, learned CGC has argued that once it is established that the writ petitioner had made false declaration the law will take its own course. According to Mr. Dutta, making false declaration in the enrolment form is a serious misconduct under Rule 23 of the SSB Rules, 2009. Therefore, the authorities were wholly justified in terminating the services of the petitioner by issuing order dated 24-08-2016. In support of his above argument, Mr. Dutta has also referred to the decision of the Supreme Court rendered in the case of ***Avtar Singh Vs. UoI & Ors [SLP(C) No. 20525/2011]*** to submit that in a similar fact situation, Hon'ble Supreme Court had held that furnishing false information in the declaration form is a serious misconduct which

would invite major penalty.

7. I have considered the submission advanced at the Bar and have gone through the materials available on record. It is not in dispute that the writ petitioner had made a false declaration in the enrolment form with regard to question No. 7. That apart, although it was necessary for the petitioner to inform the authorities, he did not inform them about the pendency of the criminal case in the Mainpuri Court. Therefore, the basic allegation of furnishing false information/ suppressing relevant information brought against the writ petitioner, is established beyond doubt. The only question that would, therefore, arise for consideration in this case is as to whether or not, the action on the part of the respondent in terminating the services of the writ petitioner due to the alleged misconduct was justified in the facts of the case?

8. Mr. Muktar has argued that even assuming that the misconduct is established, the penalty imposed upon the writ petitioner is disproportionate and therefore, calls for interference by this Court.

9. In the case of ***Jainendra Singh Vs. State of UP through Principal Secretary, Home & Ors.*** reported in ***(2012) 8 SCC 748***, the Hon'ble Supreme Court has observed that a person who suppressed material information and/ or has given false information cannot claim any right for appointment or continuity in service. The aforesaid decision was relied upon and quoted with approval in the case of ***Avtar Singh (Supra)***.

10. Rule 21 of the SSB Rules lays down the procedure for termination of service of a person other than an officer on account of misconduct. Rule 23 provides that service of

an employee can be terminated on the ground of furnishing false or incorrect information at the time of appointment. Rule 23 of the Rules of 2009 is quoted here-in-below for ready reference:-

23. Termination of service on grounds of furnishing false or incorrect information at the time of appointment.- *The Central Government, or as the case may be, the authority as specified in Rule 18, may terminate the service of a person subject to the Act on grounds of furnishing false or incorrect information at the time of appointment of that person in the service and a show cause notice giving one month's time shall be issued to the individual before termination of his service.*

11. From a plain reading of the Rules it is thus apparent that when it is detected that a person has made a false statement or furnished incorrect information at the time of appointment, the same can be a ground to terminate his service.

12. In the present case, as noted above, it is established that the petitioner had furnished false information at the time of his appointment. Therefore, this Court does not find any fault with the action taken by the respondent authorities in terminating his service by issuing the impugned order dated 24-08-2016.

For the reasons stated hereinabove, this Court is of the opinion that there is not merit in this writ petition and the same is accordingly dismissed.

No order as to cost.

JUDGE

GS

Comparing Assistant