

GAHC010185132014



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

WP(c)2298/2014

Sri Sanjay Chauhan @ Jaswant Chauhan
S/o Sitaram Chauhan,
Permanent resident of Village Dalpatpur
PS Gahmar, District Ghazipur, State Uttar Pradesh
Presently resident of C/o Ramesh Chauhan
Village Sindosor, PO Jagiroad, District Morigaon Assam.

..... Petitioner

-Versus-

1. The Union of India represented by the Secretary, Government of India, Ministry of Home, New Delhi – 110001.
2. The Director General of Police, Central Reserve Police Force, New Delhi – 110001.
3. The Inspector General of Police, Central Reserve Police Force(CRPF), M & N Sector, Imphal, Manipur.
4. The Deputy Inspector General of Police, Group Centre, Central Reserve Police Force(CRPF), Imphal(Manipur).
5. The Commandant, Group Centre, CRPF, Imphal.

..... Respondents

By Advocates:

For the petitioner: Mr. I. Alam

For the respondents: Mr. R. K. D. Choudhury, Dy.SGI

:::BEFORE:::

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 20.03.2024

Date of Judgment: 20.03.2024

Judgment & order(Oral)

-

Heard Mr. I. Alam, learned counsel for the petitioner. Also heard Mr. R. K. D. Choudhury, learned Dy.SGI, appearing on behalf of all the respondents.

2. The petitioner by way of instituting the present proceedings, has assailed an order, dated 01.12.2011, by which, his services came to be terminated under the provisions of Rule 5(1) of the Central Civil Services(Temporary Services) Rules, 1965.

3. The petitioner was recruited by the respondent authorities, vide an order, dated 10.05.2011, to the post of Constable(WC) in the Central Reserve Police Force(CRPF). The recruitment process preceding issuance of the said order of appointment, dated 10.05.2011, was carried-out by the Group Centre, Central Reserve Police Force(CRPF), Imphal. The petitioner on his such appointment, also was appointed within the jurisdiction of the said Group Centre, Central Reserve Police Force(CRPF), Imphal.

4. On joining his services as Constable(WC) in the Central Reserve Police Force(CRPF); the petitioner, as was mandated, submitted his verification roll on 31.05.2011, wherein, he had categorically stated that he was never arrested and/or prosecuted in any criminal case and no criminal proceedings was pending against him in any Court of law.

5. As per the procedure mandated, the verification roll of the petitioner was

sent to the District Magistrate, Ghazipur, Uttar Pradesh, for verification of the character and antecedents of the petitioner. The District Magistrate, Ghazipur, Uttar Pradesh, upon concluding the verification as mandated, vide his communication, dated 12.09.2011, intimated the respondents that the petitioner was an accused in a case registered vide First Information Report(FIR) No. 152/2006, dated 08.05.2006, which was stated to be pending in the Court of the learned Special Judge at Ghazipur, Uttar Pradesh, in Special Sessions Trial Case No. 787/2012.

6. On receipt of the said information from the District Magistrate, Ghazipur, Uttar Pradesh; the respondent authorities served a notice, dated 31.10.2011, under the provisions of Rule 5(1) of the Central Civil Services(Temporary Services) Rules, 1965, intimating the petitioner that his services shall stand terminated on expiry of a period of 1(one) month from the date on which the said notice is served on him. Accordingly, vide the order, dated 01.12.2011, the services of the petitioner came to be terminated with immediate effect i.e. on completion of 1(one) month from the date of service of the said notice, dated 31.10.2011, on the petitioner.

7. The petitioner by way of instituting the present proceedings, has assailed the said order of termination, dated 01.12.2011. This Court, vide order, dated 19.11.2014, while admitting the case for hearing, had kept the issue of maintainability of this writ petition open on the ground of lack of territorial jurisdiction of this Court to consider the dispute as arising in the present proceedings.

8. Mr. Alam, learned counsel, submits that pursuant to the termination as effected in the petitioner's case, the petitioner although was a permanent resident of Ghazipur, Uttar Pradesh, being unemployed; had taken shelter at his elder brother's residence situated at village Sindosor, Jagiroad, in the district of Morigaon and the services of the petitioner being regulated by the provisions of the Central Reserve Police Force(CRPF) Act, 1949, and the rules made thereunder; this Court had the territorial jurisdiction to consider the dispute as arising in the matter.

9. Mr. Alam, learned counsel, in support of his submissions, places reliance on the decisions rendered by the Hon'ble Supreme Court in the case of ***Khajoor Singh v. Union of India & anr.***, reported in ***AIR 1961 SC 532*** and in the case of ***Dinesh Chandra Gahtori v. Chief of Army Staff & anr.***, reported in ***(2001) 9 SCC 525***.

10. Mr. Alam, learned counsel for the petitioner, contends that the petitioner being illegally terminated from his service by the respondent authorities by invoking the provisions of the said Central Civil Services(Temporary Services) Rules, 1965; this Court is called upon to examine the issues arising in the present proceedings on its merits.

11. Per contra, Mr. Choudhury, learned Dy.SGI, appearing on behalf of the respondents Union of India; submits that mere perusal of the pleadings as brought on record, demonstrates that the entire cause of action in the matter has arisen in the State of Manipur, more particularly, at Imphal, and no cause of

action even in a fraction, had occasioned within the territorial jurisdiction of this Court.

12. Mr. Choudhury, learned Dy.SGI, by referring to the provisions of Article 226 of the Constitution of India, contends that no cause of action having arisen within the territorial jurisdiction of this Court, the instant writ petition would not be maintainable and accordingly, this writ petition is required to be dismissed on the issue of maintainability and this Court is, therefore, not called-upon to examine the merits involved in the matter.

13. In this connection, Mr. Choudhury, learned Dy.SGI, relies on a decision of the Hon'ble Supreme Court in the case of ***M/s. Kusum Ingots & Alloys Ltd. v. Union of India & anr.***, reported in ***(2004) 6 SCC 254***.

14. I have heard the contentions of the learned counsel appearing for the parties and also considered the materials available on record.

15. The preliminary issue with regard to the issue of maintainability of the present proceedings, is being considered initially.

16. It is to be noted that this Court, vide order, dated 19.11.2014, kept the issue of maintainability of this writ petition open to be decided at the time of final hearing of the present proceedings.

17. The provisions of Article 226(1) & (2) of the Constitution of India, being relevant, is extracted hereinbelow:

“226. Power of High Courts to issue certain writs.-(1) Notwithstanding anything in article 32], every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including (writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose).

(2) The power conferred by clause(1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.”

18. The provisions of Article 226(1) of the Constitution of India mandates that this Court shall have the power throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories, directions, orders or writs, for the enforcement of any of the rights conferred by Part III and for any other purpose.

19. The pleadings as brought on record by the petitioner, reveals that the actions impugned in this writ petition, had all occasioned at Imphal in the State of Manipur. No issue pertaining to the dispute in question, had arisen within the territorial jurisdiction of this Court.

20. It is to be noted that no part of a cause of action had arisen within the territorial jurisdiction of this Court and the petitioner had instituted the present proceedings only by contending that he after having been removed from his services, had taken shelter at the residence of his elder brother, situated at Jagiroad of Morigaon. The above temporary residential status of the petitioner would not confer jurisdiction on this Court to examine the issue pertaining to the termination of the services of the petitioner effected vide order, dated 01.12.2011, passed by the Deputy Inspector General of Police, Group Centre, Central Reserve Police Force(CRPF), Imphal.

21. This Court, in the event of any part of the cause of action arising within its territorial jurisdiction, would have had the jurisdiction to entertain the writ petition. However, no cause of action having arisen within the territorial jurisdiction of this Court, this Court is not empowered to entertain the present proceedings. Accordingly, this writ petition is to be held to be not maintainable before this Court on the ground of lack of territorial jurisdiction over the subject-matter of dispute.

22. Having concluded that this writ petition is not maintainable before this Court, given the dispute involved in the matter; this Court considering the submissions of the learned counsel for the petitioner, would also like to examine the grievances raised by the petitioner with regard to the termination effected in his case vide the order, dated 01.12.2011.

23. The pleadings brought on record reveals that the said termination order

was issued in the case of the petitioner under the provisions of the Central Civil Services(Temporary Services) Rules, 1965, on account of suppression of information in the verification roll submitted by the petitioner. The petitioner had suppressed the information that there was a criminal case pending against him.

24. It is to be noted that the issue under consideration is not as to whether the applicant was suitable for being recruited to the post but it is being examined as to whether the suppression of information in the verification roll submitted by the petitioner, had rendered his continuance in service, unsustainable. The pendency of a criminal case/proceeding is different from suppressing the information of such pendency. The case pending against a person might not involve moral turpitude but suppressing of the same information, itself, amounts to a moral turpitude. In fact, the information sought by the employer, if not disclosed, would definitely amount to suppression of material information. In that eventuality, the service of an employee becomes liable to be terminated even if there have been no further trial and/or even if the person is acquitted/discharged in the criminal case in question.

25. It is the further settled position of law that where an applicant gets an office by mis-representing the fact, or, by playing a fraud on the competent authority, such an order of employment cannot be sustained in the eye of law, for, it is held that fraud avoids all judicial acts ecclesiastical or temporal.

26. The petitioner, in the writ petition, has not contended that he was unaware of the criminal case pending against him. Accordingly, it is to be

construed that the petitioner had deliberately suppressed disclosure of such pendency of a criminal case against him in the verification roll submitted by him. The mis-representation of pendency of a criminal case against the petitioner in the verification roll submitted by him, amounts to a fraud and it is to be held that if an employment is obtained by a fraud, the same cannot be permitted to be continued by a Court of law as employment secured by fraud renders it voidable at the option of the employer.

27. The verification of the character and antecedent is one of the most important criteria to test whether the selected candidate is suitable to the post in the force concerned. Though the writ petitioner was found physically fit, passed the written test as well as the interview and was provisionally selected; on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a constable in the disciplined force. The view taken by the appointing authority in the background of this case, cannot be said to be unwarranted. Though the petitioner was discharged/acquitted of the criminal offences; the same has got nothing to do with the issue in question.

28. The suppression of material information and making a false statement in the verification roll, has a clear bearing on the character and the antecedent of an employee in relation to his continuation in service. The petitioner not having pleaded that he was unaware of the pendency of the criminal case against him, it is to be held that non-disclosure of such information in the verification roll submitted by him, amounted to mis-representation. Accordingly, the petitioner is

not entitled to any leniency in the matter in-as-much as suppression of the material information sought for by the employer or furnishing of a false information itself amounts to a moral turpitude and is separate and distinct from involvement in a criminal case.

29. In view of the conclusions as reached hereinabove with regard to the issue pertaining to the maintainability of the present proceedings on the ground of lack of territorial jurisdiction of this Court over the subject-matter of dispute as well as the conclusions as reached by this Court with regard to the discharge of the petitioner from his services under the provisions of the Central Civil Services(Temporary Services) Rules, 1965; this writ petition is held to be devoid of merit and accordingly, the same is hereby dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant