

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
W.P.No. 1817 OF 2015

ORDER: *(per Hon'ble Sri Justice M.Satyanarayana Murthy)*

Challenging the order in O.A.No. 9055 of 2013 passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal') dated 22-08-2014, the State filed this Writ Petition.

2. The 1st respondent, in response to the notification issued by the State Level Police Recruitment Board, applied for the post of Stipendiary Cadet Trainee Police Constable (Civil) (Men) (Post Code No. 21) (for brevity, 'SCTPCCM'). His application was accepted; he got through the tests specified under the notification and, ultimately, got selected for the said post. The petitioners called for attestation form in Annexure – I from the 1st respondent and he submitted his attestation form as required in Annexure – I on 20-09-2012. To his misfortune, the petitioners denied posting as SCTPCCM on the ground that the 1st respondent involved in a criminal case and issued proceedings in R.C.No. 528/R&T/Genl.2/2012 dated 06-11-2013.

The 1st respondent challenged denial of posting by filing O.A.No. 9055 of 2013 on the ground that he was acquitted for the offences punishable under Sections 147, 148, 324, 307, 302 r/w 149 of the Indian Penal Code (for brevity, 'I.P.C.') in crime No. 3 of 2005 of Veldurthi Police Station by calendar and judgment dated 24-03-2006 in Sessions Case No. 503 of 2005 on the file of the Court of IV Additional Sessions Judge, Kurnool, after full-fledged trial. The 1st respondent was arrayed as accused No. 11 and found not guilty. The acquittal was clean and honourable acquittal.

The petitioners opposed the application before the Tribunal and relied on Rule 12 (1) (a) (ii) of the Andhra Pradesh State and Subordinate Services

Rules, 1996 (for brevity, 'the Rules of 1996') to contend that involvement in criminal case is a disqualification for appointment to the post of SCTPCCM. They also relied on the judgment of Apex Court in ***Commissioner of Police, New Delhi, and another Vs. Mehar Singh***^[1] and prayed to dismiss the application.

The Tribunal, upon considering entire material and hearing argument of both counsel, allowed the O.A., quashing the proceedings in R.C.No. 528/R&T/Genl.2/2012 dated 06-11-2013, with a direction to the petitioners to appoint the 1st respondent to the post of SCTPCCM as per his merit in the selection process forthwith.

Aggrieved by the order in the O.A., the petitioners filed the present Writ Petition almost reiterating the grounds urged before the Tribunal. One of the major contentions of learned Government Pleader for Services (A.P.) before us is that the 1st respondent is disqualified in view of Rule 3 (F) of the Andhra Pradesh (Stipendiary Cadet Trainee) Rules, 1999 (for short, 'the Rules of 1999'), issued in G.O.Ms.No.97 of Home (Legal-II) Department dated 01-05-2006 in continuation of G.O.Ms.No.315 dated 13-10-1999, and, in view of Rule 12 (1) (a) (ii) of the Rules of 1996, no person shall be eligible for appointment to any service by direct recruitment unless his/her character and antecedents are such as to qualify him/her for such service. Thereby, the 1st respondent was found not eligible due to his involvement in S.C.No. 503 of 2005 for the offences punishable under Sections 147, 148, 324, 307, 302 r/w 149 of I.P.C.

Learned Government Pleader for Services (A.P.), on the strength of the principles laid down in ***Delhi Administration through its Chief Secretary and others Vs. Sushil Kumar***^[2]; ***Samar Bahadur Singh Vs. State of Uttar Pradesh***^[3] and ***Commissioner of Police, New Delhi, and another*** (1st *supra*), contended that the 1st respondent is disqualified for appointment as SCTPCCM

3. At the stage of admission, we heard argument of learned Government Pleader. Learned Government Pleader, almost reiterating the grounds urged in the Writ Petition, contended that police force is the most disciplined force and the persons working in police force are required to maintain discipline but involvement in criminal case, prior to his selection, amounts to moral turpitude. Thereby, the 1st respondent is disqualified for being appointed as SCTPCCM.

4. Considering the contentions of learned Government Pleader and perusing the material on record including the impugned order in O.A.No. 9055 of 2013, the sole point that arises for consideration is:

"Whether involvement of the 1st respondent in crime No. 3 of 2005 of Veldurthi Police Station for the offences punishable under Sections 147, 148, 324, 307, 302 r/w 149 of I.P.C. and his acquittal by judgment dated 24-03-2006 in S.C.No. 503 of 2005 on the file of the Court of IV Additional Sessions Judge, Kurnool, get him disqualified for appointment as SCTPCCM, if not, whether the proceedings in R.C.No. 528/528/R&T/Genl.2/2012 dated 06-11-2013 are liable to be set aside?"

5. **In Re. Point:**

Undisputedly, the 1st respondent applied for the post of SCTPCCM and was recruited for the said post after getting through the necessary tests prescribed in the notification referred *supra*. The petitioners also supplied attestation form in Annexure – I and the 1st respondent submitted the same to the petitioners disclosing his involvement in crime No. 3 of 2005 of Veldurthi Police Station, Kurnool District, so also his acquittal by judgment dated 24-3-2006 in column No. 16 of Annexure – I. Thus, the 1st respondent did not suppress any material fact in the application submitted for his recruitment or in Annexure – I. It is not even the case of the petitioners that

the 1st respondent suppressed any material fact for being appointed as SCTPCCM but contended that involvement of the 1st respondent in crime No. 3 of 2005, though acquitted, is a disqualification for his appointment.

6. The 1st petitioner issued notification in R.C.No. 927/R&T/Rect.2/2011 dated 31-10-2011 specifying number of vacancies, *pro forma* of application, eligibility conditions, tests prescribed for recruitment and other necessary details but the notification did not disclose any such disqualification for being appointed as SCTPCCM. Clause No. 7 of the notification prescribed necessary eligibility for post code Nos. 21 to 28. None of the eligibility conditions for post code No. 21 disclosed that involving in any criminal case is a disqualification for being appointed. It is not even the case of the petitioners that involving in criminal case is a disqualification as per the notification but the specific case of the petitioners is that, as per Rule 3 (F) of the Rules of 1999 and Rule 12 (1) (a) (ii) of the Rules of 1996, the 1st respondent is disqualified for being appointed as SCTPCCM. For brevity, Rule 12 (1) (a) (ii) of the Rules of 1996 is extracted hereunder for better appreciation:

"No person shall be eligible for appointment to any service by direct recruitment unless he satisfied the selection authority as well as the appointing authority that his character and antecedents are such as to qualify him for such service."

But, the Rule did not disclose any bar for being appointed as a civil servant in any department due to involvement in any criminal case. However, much reliance is placed on the said Rule by learned Government Pleader. On close analysis of the Rule, it is evident that character and antecedents have to be taken into consideration to qualify him for appointment as a civil servant but what the requirements are not known even according to the Rule.

7. Rule 3 (F) of the Rules of 1999 says that a person involved in an offence involving moral turpitude is disqualified for appointment. In the

present case, the 1st respondent involved in criminal case for the offences punishable under Sections 147, 148, 324, 307, 302 r/w 149 of I.P.C. Moral turpitude is not defined anywhere but dictionary meaning of the word moral turpitude is acts or behaviour that gravely violates accepted moral standards of the community; baseness or depravity in private or social duties that one person owes another or owes society in general. Therefore, involving in criminal case for the offences punishable under Sections 147, 148, 324, 307, 302 r/w 149 of I.P.C. certainly amounts to moral turpitude. Honourable/clean acquittal of the 1st respondent by the Sessions Court is sufficient to vitiate the stigma on the 1st respondent about his involvement in the criminal case involving moral turpitude. When the Sessions Court found the 1st respondent not guilty and acquitted him honourably/cleanly, it is difficult to accept the contention of the petitioner that the 1st respondent involved in the criminal case involving moral turpitude which disqualified him for being appointed as SCTPCCM. It is common knowledge of everyone that there is every possibility of implication in criminal cases by rivals and if mere implication in criminal case by itself is treated as a disqualification, it is difficult for many people to get public employment, more particularly in certain areas of the State of Andhra Pradesh. When once the 1st respondent was acquitted for the offences, which he was tried by the Sessions Court, he is no more an accused and it is not a disqualification for him for being appointed as SCTPCCM.

8. Learned Government Pleader for Services (A.P.) drawn attention of this Court to Rule 12 of the Rules of 1996. Sub-Rule (4) of Rule 12 of the Rules of 1996 speaks about disqualification for appointment. Clause (d) of sub-Rule (4) is relevant for the present dispute and it is extracted hereunder for better appreciation:

"No person who has been dismissed from a State or Central Government service or from the service of Central or State Government undertaking or local or other authorities or who has been convicted by a Court of law for an

offence involving moral turpitude shall be eligible for appointment to any State or Subordinate Service."

Rule 12 (4) (d) of the Rules of 1996 disqualifies a person who is convicted by a Court of law for an offence involving moral turpitude but, in the present case, the 1st respondent was acquitted for the offences punishable under Sections 147, 148, 324, 307, 302 r/w 149 of I.P.C. Therefore, Rule 12 (4) (d) of the Rules of 1996 has no application and, on the strength of the same, the 1st respondent cannot be disqualified for being appointed as SCTPCCM

9. Learned Government Pleader for Services (A.P.) further contended that the 1st respondent is disqualified in view of Rule 3 (F) of the Rules of 1999, issued in G.O.Ms.No.97 of Home (Legal-II) Department dated 01-05-2006 in continuation of G.O.Ms.No.315 dated 13-10-1999, and, in view of Rule 12 (1) (a) (ii) of the Rules of 1996, no person shall be eligible for appointment to any service by direct recruitment unless his/her character and antecedents are such as to qualify him/her for such service. A person, who involved in an offence involving moral turpitude, is disqualified for appointment. Admittedly, the 1st respondent involved in criminal case, tried by the Sessions Court but found not guilty. The Sessions Court recorded honourable acquittal of the 1st respondent. An identical question came up for consideration before Madras High Court in ***D.Mahadevan Vs. The Director General of Police***^[4], wherein it was held that

"If acquittal of any accused is honourable acquittal then he shall not be debarred from any Government job on basis of previous involvement in crime."

In the facts of the above judgment also, the Government of Tamil Nadu amended the rules disqualifying a candidate appearing for recruitment when he involved in any criminal case but the High Court of Madras did not accept the said contention and held that it is a disqualification. Persuaded by the principle laid down in the above judgment, the 1st respondent herein cannot

be disqualified for being appointed for the post of SCTPCCM.

10. Learned Government Pleader for Services (A.P.) relied on ***Delhi Administration through its Chief Secretary and others*** (2nd *supra*) to contend that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was physically found fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it is not desirable to appoint a person of such record as a Constable to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for consideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences. The consideration relevant to the case is of the antecedents of the candidate. Appointing Authority, therefore, has rightly focused this aspect and found him not desirable to appoint him to the service. However, learned counsel for the 1st respondent submitted that learned Government Pleader's reliance on ***Sushil Kumar's*** (2nd *supra*) case is misplaced because it has been distinguished in ***Commissioner of Police Vs. Dhaval Singh***^[5]. ***Sushil Kumar*** was a case of concealment of facts whereas there is no concealment in the case on hand. It is further submitted that, many a time, due to personal enmity and political reasons, people are falsely implicated in criminal cases. Very often, criminal cases end in acquittal or are compounded. Compounding or acquittal of a criminal case should, therefore, not act as an obstacle to a person being appointed to any post. An order of acquittal is always honourable. An acquittal is an acquittal for all purposes.

11. The 1st respondent is denied appointment only due to his involvement in criminal case but not on the antecedents report submitted by Intelligence Department. Therefore, mere involvement in criminal case is not a ground to disqualify him, more particularly when he is acquitted honourably by the Sessions Court. In concurrence with the submissions of learned counsel for the 1st respondent and taking into consideration of the present changing circumstances in a probable perspective, implication of innocent persons in criminal cases cannot be ruled out, more particularly in faction areas like Rayalaseema. The Tribunal, therefore, rightly concluded that there is every possibility of falsely implicating innocents and, when the 1st respondent was found not guilty and acquitted for the grave charges, he cannot be disqualified.

12. Considering all the facts and circumstances of the case with reference to law laid down by Apex Court and Madras High Court, we find that it is a fit case to confirm the order of the Tribunal passed in O.A.No. 9055 of 2013 since we find no legal infirmity in the order of the Tribunal warranting interference of this Court. Therefore, the finding of the Tribunal is hereby confirmed holding this point in favour of the 1st respondent and against the petitioner.

13. In the result, the Writ Petition is dismissed confirming the order of the Andhra Pradesh Administrative Tribunal at Hyderabad in O.A.No. 9055 of 2012 dated 22-08-2014. Pending miscellaneous petitions, if any, in this Writ Petition shall stand dismissed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

MURTHY, J.

Date: 12th March, 2015.

JSK

[\[1\]](#) (2013) 7 SCC 685

[\[2\]](#) (1996) 11 SCC 605

[\[3\]](#) Civil Appeal No. 7643 of 2011

[\[4\]](#) (2008) 4 MLJ 88

[\[5\]](#) (1999) 1 SCC 246