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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2911 of 2013**

- Chintaram Mahaveer S/o Late Shri Loknath Mahaveer Aged About 39 Years R/o Bhilai, Tahsil & Police Station Charama, Dist Durg, (CG) Civil & Revenue District Durg

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mahanadi Bhawan, Capital Complex, Mantralaya, Raipur.
2. Director General Of Police, Police Headquarters, Civil Lines, Raipur, Cg
3. Inspector General Of Police, Bastar Range, Lal Bagh, Jagdalpur, Cg
4. Superintendent Of Police, Kanker, (CG)

---- **Respondent**

For Petitioner : Shri Sandeep Shrivastava, Advocate.
 For Respondents : Shri S. Majid Ali, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****11/02/2016**

1. In this petition under Article 226 of the Constitution of India, the petitioner has called in question the appellate order dated 11.7.2013 passed by the Director General of Police dismissing the petitioner's appeal which was preferred to challenge the first appellate order passed by the IG, Bastar Range on 29.11.2012 and the original order passed by the SP, Kanker on 4.7.2007 discharging the petitioner from services.

2. The petitioner was appointed as a recruit constable in Kanker district and was undergoing probation period. At the relevant time, he was working as Cook in the Bungalow of SP, Kanker. In the process of recruitment of constables for CTJW, College, Kanker, the petitioner promised one Awadhesh Sinha for arranging employment for his son Gokul Sinha and in lieu thereof, he received a sum of Rs.1.5 lakhs. When the concerned individual was not selected, they demanded refund of the amount on which the petitioner repaid only Rs.1 lakh. The petitioner committed similar mischief with 2 other persons and each of the victims preferred criminal case against the petitioner. The victims also made a complaint before the SP. In the above background, vide order dated 4.7.2007 (Annexure-P/2), SP, Kanker discharged the petitioner from services by mentioning that his services are no longer required. The said order has been affirmed in appeal by the IG, Police and by the Director General of Police, Chhattisgarh.
3. It is argued by learned counsel for the petitioner that in all the 3 criminal cases, the complainants have compounded the offence as a result of which the petitioner has been acquitted, therefore, the very basis of the order of discharge being wiped off, the petitioner is entitled to be reinstated. He would also submit that his termination without holding a regular enquiry is wholly illegal.
4. On the other hand, learned State Counsel would submit that the petitioner being a probationer has been discharged in terms of para-59

of the Chhattisgarh Police Regulations as also under Rule 12 of the CG Government Services (Temporary and Quasi Permanent Services) Rules, 1960, therefore, the order being unstigmatic, a regular enquiry was not required.

5. Perusal of the order of discharge passed by the SP, Kanker would manifest that it does not carry any stigma against the petitioner. Since the order of discharge without stigma is not a bar for future employment, the employer was not required to conduct a regular enquiry.
6. The Supreme Court in the matter of **Dhanjibhai Ramjibhai Vs. State of Gujarat** {(1985) 2 SCC 5}, has held that a probationer's services can be terminated if on an overall appreciation of his record of service he is found unsuitable for being absorbed in the service. If the order of termination does not contain any stigma or refer to any charge of misconduct on the part of the probationer, there is no obligation to afford him an opportunity of being heard before terminating his services.
7. A Police Constable is appointed under para-59 of the Police Regulations which provides that every recruit will be on probation for two years which may be in two periods of six months each, if the Superintendent considers it desirable. During this probationary period his services may be dispensed with at any time, if, in the opinion of the Superintendent, he is unlikely to become a satisfactory police officer. Thus, the Police

Regulations confers power on the competent authority to discharge the Police Constable during the period of probation. In the background facts which led to lodging of criminal cases against the petitioner and complaint by the victims before the SP, there was material before the authorities to exercise power under Para-59 of the Police Regulations. Merely because the petitioner was later on acquitted on account of composition of offence, he is not entitled to be reinstated because the order of discharge is not based on registration of criminal case against him but the same was on account of assessment of his overall conduct as a probationer. The petitioner being a Cook posted in the Bungalow of SP was required to be disciplined and sincere. In the facts and circumstances of the case, invocation of the provisions contained in para-59 of the Police Regulations is neither illegal nor perverse. The probationer having no right to hold the post till he is confirmed, a regular enquiry was not needed in the matter.

8. For all the aforesaid reasons, this Court does not deem the present to be a fit case for interference. The writ petition is liable to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve