

dss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10141 OF 2014

Sharad V. Pagare ... Petitioner
Vs.
The Superintendent of Police
Nashik Rural, Nashik and anr. ... Respondents

Mr. B.K. Barve a/w. Mr. Sandeep Barve, Ms Sheetal Tanpure i/b B.K.
Barve & Co for the Petitioner.
Mr. P.P. Kakade, AGP for Respondent Nos.1 and 2.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.
DATE : JUNE 08, 2016

P. C.

1] Heard learned counsel for the parties.

2] The challenge in this petition is to the order dated 13 August 2014 made by the Maharashtra Administrative Tribunal (MAT) dismissing the Petitioner's Original Application No. 106 of 2013 questioning the Petitioner's discharge from the post of Police Constable by order dated 27 December 2012. The Petitioner was discharged from the service on the ground that the Petitioner had

submitted false information in the attestation form submitted by him at the stage of securing employment in the post of Police Constable on 12 October 2007. The record indicates that the Petitioner, as against the column in the attestation form, requiring him to state whether any case was pending in the Court of law, had stated that no such case was pending. There is however, no dispute that as on 12 October 2007, criminal prosecution under Sections 7,12, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 was very much pending against the Petitioner. In fact, C.R. No. 3030 of 2007 had been registered against the Petitioner. The Petitioner had been arrested on 27 November 2002 and released on bail on 28 November 2002. The circumstance that the Petitioner was ultimately acquitted in the aforesaid case on 11 January 2012, is hardly a justification for suppressing such vital information in the attestation form.

3] Mr. B.K. Barve, learned counsel for the Petitioner, however, submitted that this is a fit case where the MAT should have followed the decisions of the Hon'ble Supreme Court in case of ***Commissioner of Police and Ors. Vs. Sandeep Kumar (Civil Appeal No. 1430 of 2007)*** and ***Ram Kumar Vs. State of U.P. - 2011 LAWS (SC)-8-96*** and condoned the failure on the part of the Petitioner to disclose true and correct facts with regard to pendency of criminal prosecution. Mr. Barve also submitted that the Respondents, in case of

Shinde and Desle, had in fact condoned such suppression and the case of the Petitioner was identical.

4] There is no material on record to accept the contention of Mr. Barve that the case of the Petitioner is identical to that of Shinde and Desale. In fact, the MAT has considered and rejected this contention, *inter alia* by observing that no prosecution under Prevention of Corruption Act had been launched against the Shinde and Desale. The MAT has rightly observed that there is no general proposition that all employees, who may have suppressed true and correct particulars in the attestation form are required to be reinstated, once they are acquitted in the criminal proceedings. The decisions in case of ***Ram Kumar (supra)*** and ***Sandeep Kumar (supra)***, turn on their own facts, which are not comparable to the facts and circumstances concerning the Petitioner.

5] In case of ***Ram Kumar (supra)***, the constable disclosed after his appointment the factum of acquittal, voluntarily. The Hon'ble Apex Court also took into consideration that the criminal prosecution was in relation to a very trivial incident and that such prosecution would have no impact upon duties as Police Constable. Similarly, in case of ***Sandeep Kumar (supra)***, the employee concerned did not mention in his application form that he was involved in a criminal case but in the attestation form, soon after he was selected, the employee

concerned did disclose his involvement in the criminal case for offences punishable under Section 325 read with Section 34 of the Indian Penal Code. The employee concerned also disclosed that the matter had been compromised and ended in acquittal. It is in this fact situation that the cancellation of candidature was interfered with.

6] None of the decisions relied upon by Mr. Barve apply to the facts and circumstances of the present case. The Petitioner in the present case was charged under Prevention of Corruption Act. The MAT has rightly held that the case of the Petitioner was covered by the decisions of the Hon'ble Supreme Court in case of ***Kendriya Vidyalaya Sangathan and ors Vs. Ram Ratan Yadav – 2003 (3) SCC 437***. In the said case, the employee concerned had suppressed pendency of the criminal prosecution under Sections 323, 341, 294, 506-B read with Section 34 of the Indian Penal Code in the attestation form. Although, the criminal case was subsequently withdrawn, the Hon'ble Supreme Court held that the suppression of such material fact by the employee who was to serve as a Physical Education Teacher in Kendriya Vidyalaya, indicates that such employee was not fit to discharge duties as Physical Education Teacher. The Hon'ble Supreme Court observed that such antecedents will have some impact on the minds of students of impressionable age and there was no ground to interfere with the action taken by the authorities.

7] We are satisfied that there is no error, much less error apparent on the face of record in the impugned order. The impugned order is neither vitiated by perversity nor any non-application of mind. Accordingly, we dismiss the petition. Interim order, if any, stands vacated. There shall however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]