

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 137 OF 2015**

Om Prakash Meena	..	Petitioner
versus		
Union of India & Ors.	..	Respondents

Mr. Premlal Krishnan with Mr. Srinivas C. i/b. India Law Practitioners LLP for petitioner.

Ms N. V. Masurkar with N. D. Sharma for respondent no. 1.

Ms N. V. Masurkar with V. S. Masurkar for respondent no. 2.

**CORAM: D. H. WAGHELA, C. J. AND
M. S. SONAK, J.**

DATE : 27 APRIL 2016

P.C.:

1] The challenge in this petition is to the judgment and order dated 26 September 2014 made by the Central Administrative Tribunal (CAT) dismissing the petitioner's original application no. 413 of 2013. In the said original application no. 413 of 2013, the petitioner had challenged order dated 31 October 2012 terminating his services as primary teacher at Kendriya Vidyalaya Sangathan, Manmad, on the ground that the petitioner had suppressed material particulars in the attestation form submitted by him at the stage of securing employment.

2] The learned counsel for the petitioner has submitted that the petitioner came to be acquitted in criminal case no. 520 of 1998, in which the petitioner had been charged for offences under sections 323, 325 read with section 34 of the Indian Penal Code sometime in

the year 2004, therefore, in the year 2012, at the stage of filling in the attestation form the petitioner did not recollect this circumstance. In any case, relying upon the decision of the Hon'ble Supreme Court in **Joginder Singh vs. Union Territory of Chandigarh**¹ and decision of the Punjab and Haryana High Court in **Dinesh Kumar vs. State of Haryana & Ors.**², Mr. Krishnan submitted that since the petitioner had been acquitted, there was no obligation to make any further disclosures and the services of the petitioner could not have been terminated in such a manner.

3] Having heard learned counsel for the parties, and perused the record, we are satisfied that this is not a fit case for interfering with the impugned judgment and order made by the CAT. The records in this case reveals that criminal case no. 131 of 1999 had been filed against the petitioner for his alleged involvement in offences punishable under sections 323 and 325 read with section 34 of the IPC. No doubt, this was during the period when the petitioner was a student and the incident related to stabbing of another student. The judgment and order dated 12 July 2004, by which, the petitioner was acquitted states that one of the witnesses turned hostile and the other witnesses did not turned up for deposition.

4] Although, it is true that the petitioner was acquitted in this case, we are not prepared to accept that the petitioner had no recollection whatsoever of this case, even though, the case was continued in the Court of Chief Judicial Magistrate, Udaipur from the year 1999 to 2004. The attestation form in the present case, required the petitioner to make full and complete disclosures. The attestation form required the petitioner to state as to whether he had ever been arrested,

1 (2015) 2 SCC 377

2 2007 (2) SLR 423

prosecuted, kept under detention, bound down by any court of law. In the context of the information which the petitioner was required to disclose in the attestation form, we are satisfied that the petitioner has suppressed the information with regard to his prosecution as well as the circumstance that he was bound down by the Chief Judicial Magistrate at Udaipur. The explanation that the petitioner did not recollect all such matter is too simplistic and the same has rightly been rejected by CAT.

5] The decision of the Hon'ble Supreme Court in **Joginder Singh** (supra) is clearly distinguishable. In the said case, as noted in paragraph 18, there was no allegation of concealment of fact that a criminal case was registered against the said Joginder Singh. In fact, Joginder Singh had honestly disclosed in his verification application submitted to the selection authority that there was a criminal case registered against him and that had ended in an acquittal on account of compromise between the parties involved in the criminal case. It is in these circumstances that the Hon'ble Supreme Court ruled that Joginder Singh could not have been denied an opportunity to qualify for the post of constable. In the present case, the petitioner has concealed material particulars and therefore, the decision in **Joginder Singh** (supra) is inapplicable.

6] In case of **Dinesh Kumar** (supra) the petitioner was only required to answer as to whether he had been convicted by the court of any offence and whether he had ever been arrested. Dinesh Kumar the petitioner in the said petition, had neither been convicted by any court for any offence nor was he ever arrested. Therefore, the Division Bench of Punjab and Haryana High Court held that there was no suppression on his part, merely because he failed to disclose the

factum of prosecution and consequent acquittal.

7] In the facts and circumstances of the present case we have perused the attestation form, which requires the petitioner to disclose as to whether he had ever been prosecuted or bound down apart from several other particulars. In these circumstances the petitioner was bound to disclose that he had in fact been prosecuted. The petitioner, made a positive statement in the attestation form that he had never been prosecuted or bound down. The attestation form itself, had made it clear that furnishing of false information or suppression of any factual information in the attestation form would be a disqualification and if this is detected at any time during the services, his services would be liable to be terminated. The decision in case of **Dinesh Kumar** (supra) is therefore, of no assistance to the petitioner.

8] For the aforesaid reasons, we are satisfied that this is not a fit case to interfere with the impugned judgment and order made by the Tribunal in exercise of extra ordinary and equitable jurisdiction under Articles 226 and 227 of the Constitution of India.

9] This petition is therefore dismissed. There shall be no order as to costs.

CHIEF JUSTICE

(M. S. SONAK, J.)