

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.13428 of 2011

ORDER: *(Per Hon'ble Sri Justice V.Ramasubramanian)*

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal at Hyderabad, allowing the application of the 1st respondent, and setting aside the cancellation of his selection to the post of Police Constable, the State has come up with the present writ petition.

- 2) The admitted facts out of which the present writ petition arises are:
- a) that on 05.06.2006, the State Level Police Recruitment Board issued a notification for selection to the post of Stipendiary Cadet Trainee Police Constables;
 - b) that the 1st respondent participated in the selection process and was provisionally selected;
 - c) that thereafter the antecedents of the 1st respondent were sent for verification and it was found that he was involved in a criminal case in Cr.No.406/2006 for the alleged offences under Sections 506 and 509 IPC;
 - d) that the criminal case ended in a compromise before the Lok Adalat on 29.01.2007;
 - e) that upon coming to know of the same, the department cancelled his selection;

f) that challenging the cancellation of such selection, the 1st respondent filed O.A.No.1854 of 2007;

g) that the Tribunal allowed the application, on the short ground that once a person is acquitted in criminal case and once he satisfies the eligibility criteria for recruitment under Rule 12 of A.P. State and Subordinate Service Rules, his selection cannot be cancelled.

3) Aggrieved by the said order the State is before us.

4) The offences complained against the 1st respondent were under Sections 506 and 509 IPC. Section 506 IPC relates to punishment for criminal intimidation and Section 509 IPC relates to punishment for insulting the modesty of a woman. It is no doubt true that under Section 320(1) of the Code of Criminal Procedure, the offence under Section 506 IPC is compoundable without the permission of the Court. Similarly, the offence under Section 509 IPC is compoundable with the permission of the Court under Section 320(2) Cr.P.C.

5) The 1st respondent appears to have settled the matter with the *de-facto complainant*, before the Lok Adalat on 29.01.2007. Since the compounding of an offence under any of sub-sections (1) and (2) of Section 320 Cr.P.C. is given the same effect as that of acquittal under Section 320(8) Cr.P.C., learned counsel for the 1st respondent contends that the criminal case cannot stand in the way of his appointment, but we do not agree.

6) Rule 3 (G) (v) of the A.P. Police (Stipendiary Cadet Trainee) Rules makes it clear that if a person is involved in the commission of a crime, he need not be considered for appointment. The post to which the 1st respondent applied was in the Police Department. The refusal of the Government to

appoint a person on the ground of his involvement in a criminal case, especially to the uniformed services, cannot be found fault with.

7) Many times there is a confusion about the result of the criminal case and impact of it on public service. It is not the involvement of a person in the criminal case or his conviction or acquittal that directly impacts his employment potential. What are verified after selection are the antecedents of a person. Anything that has an adverse effect upon the character and antecedents of a person, can be taken note of by the State, which is the appointing authority, more so, when it relates to persons to be posted in uniformed forces under State Police Force. Hence, the order of the Tribunal cannot be approved.

8) Therefore, the writ petition is allowed and the order of the Tribunal is set aside. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

V. RAMASUBRAMANIAN, J

U. DURGA PRASAD RAO, J

Date: 06.12.2016
Murthy