

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.920 of 2004

DATED:15-12-2017

Between:

The Chairman
State Level Police Recruitment Board
O/o. The Director General of Police
Lakdikapool
Hyderabad
and others ... Petitioners

And

Pasivedala Siva Prasad ... Respondent

COUNSEL FOR THE PETITIONERS: G.P. for Services (AP)

COUNSEL FOR THE RESPONDENT: Mr. P. Rajasekhar

THE COURT MADE THE FOLLOWING:

JUDGMENT: (*per the Hon'ble Sri Justice C.V. Nagarjuna Reddy*)

This writ petition is filed by the State Level Police Recruitment Board, Office of the Director General of Police, Lakdikapool, Hyderabad, and two others, for issue of certiorari to quash order dt.22.10.2003 in O.A. No.3652 of 2003 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. As the relevant facts are stated by the Tribunal, they need not be repeated here. It will suffice to note that the respondent was provisionally selected for the post of Police Constable (APSP), but was not sent for training, on coming to know that he has suppressed the fact of his involvement in a criminal case. Eventually, his provisional selection was cancelled. The respondent has moved the Tribunal by filing O.A. No.3652 of 2003 assailing the action of the petitioners in denying him the post of Police Constable.

3. On behalf of the petitioners, a counter affidavit was filed *inter alia* averring that the respondent has deliberately suppressed the fact of his involvement in C.C. No.259 of 2001 under Section 509 IPC and that as it was mentioned in the application form itself that wilful suppression or concealment of the facts in this regard would entail in disqualification of the

candidature at any time if it comes to the notice of the Board or appointing authority, the provisional selection of the respondent was cancelled.

4. By the impugned order, the Tribunal has allowed the O.A. on the ground that no criminal case was pending when the applicant applied for the post of Police Constable, that he was acquitted from the criminal charge prior to his making application and that in similar cases the Tribunal as well as this Court have granted reliefs to similarly situated persons. The Tribunal also recorded a finding that the criminal case registered against the respondent ended in a clean acquittal and that the applicant pleaded that by inadvertence he has not mentioned about the criminal case in the attestation form.

5. The learned Government Pleader appearing for the petitioners strenuously argued that the Tribunal committed serious errors both in law and on facts, in that, it has ignored the footnote under columns 18 and 19 of the application form. He has further argued that the respondent was acquitted by the Criminal Court giving him benefit of doubt and that therefore it was not a clean acquittal as held by the Tribunal. He has also submitted that the respondent has not even pleaded that by inadvertence he failed to fill the column No.18. The learned

counsel for the respondent sought to sustain the order of the Tribunal.

6. Before adverting to the legal position, it would be profitable to refer to column Nos.18 and 19 of the proforma application and the note thereunder, which read as follows:

18. *“Whether you have been involved in any criminal case and arrested by police (if yes, please furnish full details such as F.I.R. number and police station).”*

19. *“Have you ever been prosecuted or convicted by a court of law in the past or facing trial in any case (if yes, please furnish full details such as name of the court, conviction particulars).”*

Note: *Willful suppression or concealment of the facts in this regard will amount to disqualification of your candidature at any time if it comes to the notice of the Board or appointing authority.”*

Admittedly, the respondent has not disclosed his involvement in the criminal case. A careful reading of the application filed before the Tribunal shows that nowhere he has pleaded that his failure to indicate his involvement in the criminal case was due to inadvertence. On the contrary, the tenor of the pleadings in the O.A. shows that he has taken a specific stand that there is no embargo on his appointment on account of his involvement in the criminal case as such a ground does not disqualify a candidate for appointment. Further, a reading of the judgment in C.C. No.259 of 2001 shows that the respondent was acquitted of the charge for the

offence under Section 509 IPC as the prosecution failed to prove the offence beyond reasonable doubt and that accordingly the respondent was entitled to the benefit of doubt. Thus, as rightly submitted by the learned Government Pleader, the Tribunal has committed serious errors in finding that the criminal case ended in clean acquittal and that the respondent has pleaded that he has not mentioned about his involvement in the criminal case by inadvertence.

7. As regards the legal position, a Division Bench of this Court, in *The State Level Police Recruitment Board, State of Andhra Pradesh v. P. Vinay* (judgment dt.10.11.2017 in W.P. No.19473 of 2017 and batch), speaking through one of us (Justice C.V. Nagarjuna Reddy), considered the relevant case law and extant rules, and held as under:

“19. Indubitably an applicant seeking employment in Police force is expected to make a fair disclosure of their antecedents for, as held in Mehar Singh [(15 supra) : (2013) 7 SCC 685], for a disciplined force like Police Department, a fair disclosure is an essential requirement and an aspirant is expected to state these facts honestly, which is an inbuilt requirement of any public employment. This obligation to make a fair disclosure was incorporated in the above-mentioned Rule itself and the consequences of failure to discharge this obligation is also made explicit in the said Rule. Not only that respondent No.1 in these cases have failed to disclose their involvement in criminal cases, they have also gone a step further by making a blatantly false statement of “No”, against column No.16. As held in paragraph 32 of the judgment in Avtar Singh [(21 supra) : (2016) 8 SCC 471], the conduct of respondent No.1 in these cases, in submitting false information itself constitutes a ground to cancel their candidature and such action is well in tune with Rule 3-G(i) of the Rules and also in conformity with the ratio in S. Samuthiram [(19 supra) : (2013) 1 SCC 598] as discussed above. Assessment of suitability of a candidate to a disciplined force is judged not only with reference to his previous

antecedents, but also on the basis of his propensity to remain honest in the service. The candidate, who tells a deliberate lie when specifically asked, cannot be taken even with a pinch of salt and he is wholly unworthy of being drafted into the Police Department which calls for highest degree of honesty and rectitude. In our opinion, furnishing of false statement would even dwarf his earlier conduct of his involvement in a criminal case. In our understanding, the quintessence of the judgments in Mehar Singh (15 supra) and Avtar Singh (21 supra) cannot be understood as laying down the proposition that the conduct of a candidate in deliberate suppression can either have no relevance or can be ignored, if the offences in which they are involved are not heinous in nature. We reiterate that the summary of the conclusions in paragraph 38 of judgment in Avtar Singh (21 supra) cannot be understood in isolation by divorcing from paragraph 32 in case of non-disclosure of/ submitting false information, more so, when a specific Rule is envisaged that such conduct would disqualify the candidate.

20. *The learned counsel for respondent No.1 - selectees placed strong reliance on the observations of the two-Judge Bench of the Supreme Court in Sandeep Kumar [(12 supra) : (2011) 4 SCC 644]. In that case, a person who was selected for the post of Head Constable (Ministerial) was disqualified on the ground that he has suppressed the fact of his involvement in a criminal case. The Court took note of the fact that when the alleged incident has happened, the candidate was 20 years of age and observed that at that age young people often commit indiscretions, that such indiscretions can often be condoned and that the Courts' approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives. A reading of the facts of the said case would show that while in his application the candidate did not mention the fact of his involvement in criminal case, he has, however, disclosed the said fact in the attestation form. On those facts, the Supreme Court gave the benefit of doubt to the candidate by observing that probably he did not mention the fact of his involvement in a criminal case in the application out of fear that if he did so, he would automatically be disqualified. The Court also made an observation in passing that the nature of the offence alleged against the candidate was not such a serious offence like murder, dacoity or rape and that therefore more lenient view should be taken. In our opinion, the judgment in Sandeep Kumar (12 supra) turns on its own facts which don't bear similarity with the cases on hand. In the former case, the candidate in the first instance has not disclosed the fact of his involvement in a criminal case, though at a later stage he came out clean by revealing his involvement while filling up the attestation form, whereas in the present cases, respondent No.1 – selectees have not only suppressed the fact of their involvement in criminal cases, but also they made false representation as if they have not involved in criminal case. Therefore, the observations of the Supreme Court in Sandeep Kumar (12 supra) cannot be of any help to respondent No.1 – selectees.”*

8. In the light of the legal position reflected in the judgment referred to above, we are of the opinion that the respondent is not entitled to be appointed as Police Constable as he has not disclosed the fact of his involvement in the criminal case despite column No.18 and the caution administered by way of a footnote that “Wilful suppression or concealment of the facts in this regard will amount to disqualification of your candidature at any time if it comes to the notice of the Board or appointing authority.” As noted hereinbefore, it is not the pleaded case of the respondent that due to inadvertence he failed to disclose the information. In the absence of such a plea, non-disclosure of the information amounts to wilful suppression or concealment which disqualifies the respondent for being appointed as Police Constable.

9. As regards the finding of the Tribunal that the criminal case was not pending when the notification was issued, the same had no relevance in determining whether the respondent incurred disqualification or not as column No.18 is not confined only to pending cases but it covers the past involvement also.

10. For the aforementioned reasons, the impugned order of the Tribunal is set aside. The writ petition is accordingly allowed.

C.V. NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

15-12-2017

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