

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

WRIT PETITION No.1871 of 2016

ORDER: (Per Justice Sanjay Kumar)

The State of Telangana and its authorities filed this writ petition aggrieved by the order dated 22.08.2012 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.5863 of 2012. The said O.A. was filed by the first respondent herein assailing the action of the authorities in not appointing him as an Armed Reserve Constable and sending him for training on par with other candidates selected pursuant to the selections held in December, 2010.

The first respondent was admittedly charged with offences under Sections 290 and 323 I.P.C. in S.T.C.No.236 of 2005 but the same was compounded before the Lok Adalat. Owing to his involvement in the said criminal case, his candidature was not considered. The Tribunal relied upon the judgment of the Supreme Court in Pawan Kumar v. State of Haryana¹ and opined that as the conviction of the first respondent was in a petty case for offences punishable under Sections 290 and 323 I.P.C. and he was let off by collecting fine, it could not be taken to be a ground for ending his career. The Tribunal accordingly directed the authorities to approve his selection as an Armed Reserve Police Constable and depute him for training.

Heard the learned Government Pleader for Services (Telangana) for the petitioners and Sri Chandraiah Sunkara, learned counsel for the first respondent.

¹ AIR 1996 SC 3300

Both the learned counsel relied upon the recent judgment of the Supreme Court in *Avtar Singh v. Union of India*². The entire case law on the subject was reviewed by the Supreme Court and the conclusions were summarised in para 38 of the judgment.

This being the legal position obtaining as on today, we are of the opinion that the positive direction of the Tribunal to approve the selection of the first respondent cannot be accepted as the aforestated judgment of the Supreme Court ultimately left it to the discretion of the employer to take a decision in this regard. No doubt, this discretion would be conditioned by the conclusions summarised by the Supreme Court in paras 36 to 38 of the aforestated judgment.

The writ petition is accordingly allowed to the extent of setting aside the positive direction issued by the Tribunal to appoint the first respondent as an Armed Reserve Police Constable. The authorities are directed to review their decision in relation to the candidature of the first respondent in the light of the guidelines stipulated by the Supreme Court in paras 36 to 38 in *Avtar Singh*². This exercise shall be completed expeditiously and, in any event, not later than eight weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

ANIS, J

21st February, 2017.
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² (2016) 8 SCC 471