

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11982 of 2016

Shivam Kumar, son of Sudhir Sharma, resident of Village Sikhiyama, P.S.
Hulasganj, District Jehanabad

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Home Affairs, New Delhi.
2. The Director General, Central Reserve Police Force, New Delhi.
3. The Additional Director General, South Zone, Central Reserve Police Force, Hyderabad.
4. The Inspector General, Southern Sector, Central Reserve Police Force, Hyderabad.
5. The Deputy Inspector General, Central Reserve Police Force Range, Taralu, Karnatka.
6. The Deputy Inspector General, Group Centre, Central Reserve Police force Taralu, Karnatka.
7. The Inspector General, Group Centre, Central Reserve Police Force, Rampur, Uttar Pradesh.
8. The Commandant, 198 Battalion, Group Centre, Central Reserve Police Force, Andhra Pradesh.
9. The Commandant, 227 Battalion, Central Reserve Police Force, Bhopal, Madhya Pradesh.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Sharma
For the Respondent/s : Mr. S.D Sanjay (Addl. Soc. Gen.)

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 03-12-2018

Heard learned counsel for the petitioner and learned
counsel for the Union of India.

In this case, the petitioner is challenging the Letter No.
RXIII-29/2015-SZ-Legal dated 06.04.2016 issued by the
Additional Director General, South Zone, Central Reserve
Police Force, Hyderabad, whereby and whereunder he has
rejected the revision petition holding that there is no provision



of revision in the Central Civil Services (Temporary Service) Rules, 1965 and the petitioner is also challenging two orders, first order passed by the Commandant bearing letter no. T-V-1/2014-227-EC-II dated 13.09.2014, whereby and whereunder in exercise of power under Sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, terminated the services of the petitioner, which was challenged before the Appellate Authority, namely, the Inspector General, Southern Sector CRPF, Hyderabad, who by his order dated 07.07.2015 rejected the appeal having held that the appeal is devoid on any merit.

An advertisement was published for the recruitment for the post of Constable (GD) in Central Security Service by the Staff Selection Commission dealing with Constable on different Para Military Services. The petitioner also applied for the said post and, accordingly, he was allotted Roll No. 3206567515. After successful crossing all the hurdles, he was given the letter of selection on 07.02.2013 vide letter no. 82-10/2012 (Estb.) under the signature of Commandant, Group Centre, CRPF, Rampur. He was supplied the questionnaire for giving information with regard to his past conduct but he did not disclose about his implication in Hulasganj P.S. Case No. 199



of 2006 and subsequent acquittal by the Juvenile Justice Board on the basis of settlement between the parties. Even the petitioner joined the Group Centre, Rampur on 11.03.2014, he submitted all his testimonials and certificates and in course of verification regarding character of the petitioner from the District Magistrate, it was transpired that he was involved in a criminal case i.e. Hulasganj P.S. No. 199 of 2006 registered under Sections 302 and other allied Sections of the Indian Penal Code in which he was direct assailant. It also appears that when this fact came into the notice of the Authority, the Commandant issued a letter dated 19.03.2014. In the said letter, it has been mentioned that he had purposefully suppressed the facts about his involvement in a criminal case and if he would repeat the same incident, the strict disciplinary action would be taken by the department concerned. When a suppression of fact by the petitioner came to the notice of the Commandant, the same Commandant vide letter dated 13.09.2014, in exercise of power under Sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, terminated the services of the petitioner after giving one month notice to him and against that, an appeal was filed, which has been also dismissed on the ground of suppression of fact.



Learned counsel for the petitioner has not denied that he had not mentioned about the criminal antecedent in the questionnaire in which the different items with regard to the criminal activity has been mentioned, but in each column he ticked in the negative side that he was not involved in any of the criminal activity though he was knowing very well his criminal antecedent with regard to his implication under Section 302 IPC.

Learned counsel for the petitioner further submits that the incident took place while he was a Juvenile and Juvenile Justice Board, after considering all the materials on record and evidence, granted honourable acquittal to him and due to the mistake without knowing consequence of the suppression, did not give the information with regard to his criminal antecedent and that was condoned by the Authority concerned in view of the fact that earlier the Commandant had passed the order of warning for his future involvement would led to serious action. He has placed reliance on the judgment of Hon'ble Supreme Court in the case of *Commissioner of Police & Ors. Vs. Sandeep Kumar*, reported in (2011) 4 SCC 644, wherein Hon'ble the Supreme Court has taken note that if a person in early age committed a wrong, it should not be taken so seriously



to lead the termination of the services of the petitioner and, on that basis, he has submitted that his case should be remanded back for further reconsideration and take a lenient view in the matter of suppression of fact in which he has already been acquitted of the charges.

Learned counsel for Union of India has submitted that every stage in the recruitment process, it was informed to all the candidates that in case of suppression of any material facts, it would lead to the termination of the services specially in the criminal antecedent though he was acquitted on the basis of compromise, but it is hardly any matter, as it is only related to getting information about the past history, which he should have been given and placed reliance on a judgment of Hon'ble Supreme Court in the case of *Avtar Singh Vs. Union of India & Ors.*, reported in *(2016) 8 SCC 471* and also placed reliance on the order recently passed by this Court in Ankush Kumar Vs. The Union of India & Ors., in C.W.J.C. No. 2701 of 2018, in which under the same circumstances, this Court has refused to accede the prayer of the petitioner for getting his reinstatement.

Having considered the rival contention of the parties, suppression of fact with regard to criminal antecedent is a serious matter and he was required to furnish all the information



to the employer. It is for the employer to decide the next course of action, that may be condoned, but the candidate cannot suppress the fact for getting a favourable order of employment in the CRPF, in such a situation, when the petitioner was involved in a criminal case of Section 302 IPC and he had obtained the order by compromise, which is apparently clear from the order, that has been brought by the petitioner before this Court and, as such, he does not deserve sympathy for being getting reinstatement.

The Disciplinary Authority and Appellate Authority have very much dealt with the issue, wherein the Appellate Authority placed reliance on the Notification bearing no. MHA UO No. 1.45020/6/2010-PERS- II dated 01.02.2012 and considering the order of the Hon'ble Supreme Court dated 24.11.2010 in SLP No. 9913 of 2010, terminated the services of the petitioner. In the judgment reported in **(2016) 8 SCC 471**, all the previous judgments have been considered by the Hon'ble Supreme Court and after considering over aspect of the matter curled out the findings of paragraph 38 of the said judgment, which is as follows:

“38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid



discussion, we summarize our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted: -

38.4.1. In a case trivial in nature in



which conviction had been recorded, such as shouting slogans at youngage or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in character



verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to



be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be

considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio verior suggestio falsi, knowledge of the fact must be attributable to him.”

Learned counsel for the petitioner has tried to persuade this Court that this case may be remitted for fresh consideration before the Appellate Authority, in view of the aforesaid discussions and observations made in the said judgment, the Authority may take a lenient view because that incident had taken place while he was a juvenile, but this Court is not persuaded by the submissions of the petitioner, as suppression of his involvement in a criminal case under Section 302 IPC is a serious business, which ought to have been brought to the notice of the employer concerned and it was for the employer to consider and to take a decision that itself makes the situation



volatile and rightly his services has been terminated by the Authority concerned as his status was a temporary employee and after giving one month notice his services have been terminated.

In such view of the matter, this Court does not find any merit in this writ petition and, accordingly, the same is dismissed.

It is clarified that the termination of service of the petitioner will not be treated to be any stigma in the future appointment.

(Shivaji Pandey, J)

V.K.Pandey/ Sunny

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2018
Transmission Date	NA

