

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3438 OF 2018

Rajesh s/o Dayanand Pagote

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. Hemant Surve, advocate for petitioner.

Mr. P.N. Kutti, A.G.P. for respondent no. 1.

Mr. A.B. Kadethankar, advocate for respondents 2 and 3.

CORAM : R.M.BORDE &

K.K. SONAWANE, JJ.

DATE : 24th APRIL, 2018

PER COURT:

1. Petitioner is objecting to the order of termination issued on 31.10.2012 passed by respondent no. 2 and confirmation of the same by the appellate authority in Departmental Appeal no. A-35/2013 decided on 10.10.2017.

2. Petitioner, while securing employment, did not mention in the application that criminal case bearing RCC no. 242/2007 was pending against him with regard to Crime no. 470/2006 under sections 147, 148, 353 and 427 of the Indian Penal Code. The date of filing of the application is 02.02.2010 on which date the criminal case was pending. He was acquitted of the charges on 05.04.2010. Petitioner was selected and appointed on 27.10.2010. He was initially appointed on probation. The services of the probationer can be dispensed with on account of the aforesaid reasons.

3. We have perused the original record in respect of RCC No. 242/2007. The charge was recorded on 31.10.2009. Thus, petitioner was posted with knowledge of pendency of criminal case against him on the date of presentation of the application. He was also put under arrest in the criminal case and was later on released on bail. Petitioner has thus with-held information as regards pendency of criminal case and his arrest, while applying for employment.

4. On perusal of the application, it does appear that the proforma application contemplates solemn affirmation by the applicant that the applicant is not involved in criminal case nor was ever arrested or convicted. Petitioner has stated on oath that the information tendered by him is correct. It does appear that petitioner on affirmation has stated falsehood. Though criminal case was pending against the petitioner and he was arrested, this aspect has not been disclosed in the application. Petitioner also contends vaguely that the view adopted by this Court on earlier occasion is not correct one and is also not in consonance with the view taken by the Honourable Supreme Court.

5. We are satisfied that the action taken by the disciplinary authority and the decision confirming the order of termination by the appellate forum does not deserve to be interfered in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India. Petition is devoid of substance hence stands dismissed.

K. K. SONAWANE
JUDGE

R.M.BORDE
JUDGE