

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.499 OF 2018

Mr. Dattaraj Ramesh Morajkar

... Petitioner

Versus

State of Goa

Through Chief Secretary & Ors.

.... Respondents

Mr. D. Gaonkar, Advocate for the Petitioner.

Mr. V. Sardesai, Additional Government Advocate for the Respondents.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 13 June 2018.

P.C. :

By this petition, the Petitioner has sought a relief to set aside the order dated 24 September 2014 to the extent that it cancels the offer of appointment issued to the Petitioner as Police Constable. Pursuant to an advertisement, the Petitioner applied to the post of

Police Constable. One of the conditions imposed by the Appointing Authority was that on the date of advertisement no criminal case be pending against the applicant. The offer of appointment issued to the Petitioner was cancelled, since it was found that a criminal case under Sections 143, 147, 148, 324, 323, 504 and 506(II) read with 149 of the Indian Penal Code was pending against the Petitioner.

2. The charge against the Petitioner was of assault and altercations in public place. In the application filed by the Petitioner, there was a specific column as regards the pendency of the criminal case. The Petitioner categorically stated that no criminal case was pending, when in fact a case was pending as on the date of the application. Based on this position, the order was passed on 24 September 2014.

3. Firstly, the question of delay and laches arises. The impugned order was passed on 24 September 2014. The Petitioner is desirous of an appointment in public service, for which honest, diligent and eligible candidates may be waiting. The petition is filed in the year 2018. There is no credible explanation whatsoever for the obvious delay. On this ground alone no relief can be granted to the Petitioner.

4. As far as the Petitioner's contention that the Petitioner was not aware any such requirement of filling up the details regarding the criminal case since he is not educated, we are not impressed with the same. The Petitioner has made a detailed representation under Right to Information Act, which he has signed in English. Even in the verification of this petition, which contain various facts, he has not stated that he does not know the contents. Therefore, this ground is taken only to cover up the complete suppression as regards mentioning of the pendency of the case. Once there is pendency of criminal case which has been actively suppressed, there is no error for the Authority not to grant the appointment. Further more, the Petitioner was aspiring being part of the police force who is supposed to follow law and order. Even the acquittal is not a clean acquittal, but benefit of doubt has been given.

5. The learned counsel relied on the decision of the Apex Court in the case of *Avtar Singh. Vs Union of India and others*¹ wherein a direction has been issued to the State Government to consider the representation. The facts therein are different. In the present case, there is a gross unexplained delay of four years and an active suppression. The Petitioner cannot act dishonestly, approach

¹ (2018) 1 SCC 268

the Court at any time and then demand discretionary relief from the Court for appointment in public service. The Petition is rejected.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.