

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO**

WRIT APPEAL No.371 OF 2018

JUDGMENT: (Per Hon'ble Sri Justice Sanjay Kumar)

The appellant is the petitioner in W.P.No.22298 of 2016, which is pending consideration on the file of this Court. He preferred this appeal aggrieved by the dismissal of W.P.M.P.No.26717 filed by him in the said Writ Petition for interim relief, vide order dated 22.12.2017.

The issue is with regard to the eligibility of the appellant-petitioner to aspire for the post of Constable (RPSF/RPF) in the context of his involvement in a criminal case. By the order under appeal, the learned Judge opined that the prayer of the appellant-petitioner to consider his case for reinstatement could not be entertained at the interlocutory stage and dismissed the miscellaneous petition.

Smt.T.Bala Jayasree, learned counsel for the respondents, would inform this Court that in the light of Rules 52 and 68 of the Railway Protection Force Rules, 1987, and the Railway Standing Instructions No.88/SEC(E)/RC-3/6 (IR) (TRG) dated 16.11.2005, the appellant-petitioner is ineligible to be continued in the service of the Railways.

Sri K.Satyanarayana Murthy, learned counsel for the appellant-petitioner, would however contend that in the light of the law laid down by the Supreme Court in ***Avtar Singh vs. Union of India***¹, it would be within the discretion of the authorities to

¹ (2016) 8 SCC 471

consider the case of the appellant-petitioner on the lines indicated by the Supreme Court therein.

However, we are of the opinion that each case would have to turn upon its individual facts apart from the Rules applicable thereto and no generalization can be made to the effect that all such cases should be governed by the general principles laid down in ***Avtar Singh***. This aspect of the matter would therefore have to be addressed in the main writ petition, which is still pending consideration.

On the above analysis, we see no ground to interfere with the order passed by the learned Judge.

The Writ Appeal is accordingly dismissed. We however make it clear that we have not gone into the merits of the case and all issues are left open to be considered in the Writ Petition.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

1st November, 2018
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