

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION (TR) No.6198 of 2017

O R D E R :

It is the case of the petitioner that the 2nd respondent issued notification dated 31-12-2018 calling for applications from the eligible candidates for selection and appointment of Firemen in A.P.Fire and Emergency Services Department. The petitioner offered his candidature as he was eligible and qualified to the post of Fireman and he was successful in physical examination and written examination Tests, which were conducted on 07-03-2009, 17-07-2009 and 13-09-2009 respectively. The petitioner's name was appeared in the list of provisionally selected candidates for the post of Firemen and he was directed to attend the District Police Headquarters, Karimnagar and he was directed to fill-up an Attestation Form, wherein the petitioner indicated about his involvement in a Petty Case and imposition of fine of Rs.200/-in the said Attestation Form. Thereafter, the petitioner was subjected to medical test at District Government Hospital, Karimnagar on 13-01-2011 and the petitioner fared well in the medical examination. Later there was no communication or correspondence from the respondents till June, 2015. On enquiry, the petitioner came to know that the petitioner's provisional selection was cancelled on the ground that the he was involved in a Petty Case and imposition of fine of Rs.200/- in C.C.No.527 of 1999 on the file of Special Judicial

Magistrate Court, Karimnagar. The petitioner made an application on 25-07-2015 under RTI Act for a copy of cancellation orders and obtained the same. Challenging the same, the present writ petition is filed.

Counter affidavit is filed admitting that the petitioner was provisionally selected to the post of Fireman under O.C. category and after verification of character, antecedents and his provisional selection was cancelled because of involvement and conviction in a criminal case vide C.C.No.527 of 1999 on 06-07-1999. Rule 3(G) (v) of A.P.Police (SCT) Rules, 1999 issued in G.O.Ms.No.315, Home (Police.C) Department, dated 13-10-1999 stipulates that "*A person who has convicted for any offence in any Court of law*" is a disqualification for appointment. As such, the provisional selection of petitioner to the post of Fireman was cancelled vide Memo Rc.No.703/R&T/Genl.2/2010, dated 06-05-2011. The Chairman, SLPRB, A.P.vide Memo No.703/R&T/Genl.2/2010, dated 06-05-2011 informed the Superintendent of Police, Karimnagar about cancellation of provisional selection of the petitioner and the Superintendent of Police, in turn communicated the same to the petitioner vide Endt.No.A1/1/1/2009, dated 20-05-2011 through registered post. As such, sought for dismissal of the writ petition.

Learned counsel for the petitioner submits that the petitioner never suppressed the fact of involvement in a criminal case and that he was convicted in a petty case, but that aspect was not considered by the respondents while cancelling the provisional selection of the petitioner. He submits that the Tribunal having satisfied with the reasons for the delay in filing the appeal condoned the delay and O.A. is numbered and thereafter the same is transferred, which is numbered as present writ petition, as such the said delay cannot be a ground for dismissal of the writ petition.

Heard learned Assistant Government Pleader for Services, who submits that there is delay in filing the O.A., which is transferred to this Court. As per Rule 3(G) (v) of A.P. Police (SCT) Rules, 1999 issued in G.O.Ms.No.315, Home (Police.C) Department, dated 13-10-1999, a person is convicted in criminal case is disqualified for appointment, as such the 2nd respondent has rightly cancelled the provisional selection of the petitioner.

In this case, admittedly, the petitioner was selected for the post of Fireman, particularly after undergoing written, physical and medical tests. The only ground on which the provisional selection of the petitioner was cancelled is that he was convicted in a Petty Case for petty offence, when the petitioner admitted the guilt and there is no suppression of the fact in the Attestation Form. This Court by its

order 06-12-2017 in WP.No.28458 of 2017 and Batch by relying on the judgment of **Avatar Singh v. Union of India**¹ set aside the proceedings cancelling the provisional selection of the petitioners therein and directed to reconsider the matter again. In this case also, the petitioner is aged 36 years by the date of filing O.A. and he was convicted for a petty offence. In this case, admittedly, no show-cause notice was issued before cancellation of provisional selection enabling the petitioner to submit his explanation.

In view of the same, the impugned order dated 05-05-2011 cancelling the provisional selection of the petitioner is set aside, since the petitioner is involved in a petty case only. The respondent-authorities are directed to reconsider the case of petitioner in terms of the judgment of Apex Court in **Avatar Singh v. Union of India**.

Accordingly, the writ petition is allowed. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

22-03-2018

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¹ 2016(8) SCC 471