

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

WRIT APPEAL Nos.828 and 833 of 2018

COMMON JUDGMENT: (per SK,J)

The State of Telangana and its officials in the Police Department are in appeal aggrieved by the common order dated 06.12.2017 passed by a learned Judge of this Court in so far as it relates to W.P.Nos.28458 and 28456 of 2017. The matter pertains to recruitment of Constables in the Police Department of the State. The writ petitions were filed by candidates who were held to be disqualified on the ground that they had suppressed their involvement in a criminal case or were otherwise disqualified either on the ground of conviction in a criminal case or pendency of a criminal case against them. By the common order under appeal, the learned Judge directed the authorities to consider the cases of the writ petitioners in terms of the guidelines laid down by the Supreme Court in AVTAR SINGH v. UNION OF INDIA¹. Aggrieved thereby, the authorities preferred this appeal.

The learned Special Government Pleader for Home Services, State of Telangana, appearing for the appellants would point out that the guidelines laid down by the Supreme Court in AVTAR SINGH¹ would have to be implemented in the State of Telangana duly keeping in mind the fact that Rule 3(G) of the Andhra Pradesh Police (Stipendiary Cadet Trainee) Rules, 1999 (*for brevity*, 'the Rules of 1999'), prescribes certain disqualifications for appointment. He would point out that the conclusions drawn by the Supreme Court in para 38 of AVTAR SINGH¹ were not on

¹ (2016) 8 SCC 471

the strength of any rules being considered and therefore, the said conclusions cannot be applied in cases covered by rules to the contrary.

We find merit in this submission.

The aforestated Rules of 1999 were framed by the erstwhile Government of Andhra Pradesh in exercise of power under Article 309 of the Constitution and would have application in the State of Telangana. In terms of Rule 3(G) of the said rules, candidates falling under the following categories are disqualified for appointment:

‘(i) Suppression of material facts (either in the application form or in the attestation form).

(ii) If the candidate himself or through his relatives or friends or any other has canvassed or endeavoured to enlist extraneous support whether from official or non-official sources for his candidature.

(iii) A person (a) who has entered into or contracted a marriage with a person having a spouse living, or (b) who, having a spouse living, has entered into or contracted a marriage with any other person. Provided that the State Government may, if satisfied that such marriage is permissible under the personal law applicable to such person, exempt any person from the operation of this rule.

(iv) A person who has been dismissed from the services of a State or Central Government or from the service of any Central or State Government undertaking or local body or other authority.

(v) A person who has been convicted for any offence in any court of law.

(vi) A person who is involved in an offence involving moral turpitude.’

In the light of the aforestated rules which have not been subjected to challenge by the respondents-writ petitioners, the observations in AVTAR SINGH¹, which do not conform to the aforestated rules, cannot

be applied blindly without the said rules being set aside upon an appropriate challenge being made to them. We therefore make it clear that the appellants would be entitled to take into consideration the aforestated Rule 3(G) of the Rules of 1999 while considering the cases of the respondents-writ petitioners as per the direction of the learned Judge in the order under appeal in the context of the conclusions set out by the Supreme Court in para 38 of AVTAR SINGH¹.

The writ appeals are disposed of making clear this aspect of the matter. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

M.GANGA RAO,J

Date:25.10.2018

GJ