

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

WRIT PETITION No.35129 of 2012

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The erstwhile Government of Andhra Pradesh and its officials in the Police Department along with the State Level Police Recruitment Board filed this writ petition challenging the order dated 14.02.2012 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1155 of 2012. The said O.A. was filed by the respondent herein seeking a declaration that he was entitled to be appointed as a Stipendiary Cadet Trainee Police Constable (Armed Reserve) (Men) pursuant to his selection under the Notification issued in the year 2008. By the order under challenge, the Tribunal held that the matter was squarely covered by its earlier order dated 16.12.2011 passed in O.A.No.1308 of 2011. The Tribunal accordingly allowed the O.A. directing the authorities to consider the case of the respondent-applicant for appointment as a Stipendiary Cadet Trainee Police Constable (Armed Reserve) (Men) and send him for training by issuing suitable orders. Aggrieved thereby, the authorities are before this Court.

By order dated 19.11.2012, this Court granted interim suspension of the order under challenge. W.V.M.P.No.1312 of 2013 was filed by the respondent-applicant to vacate the said order.

Heard the learned Special Government Pleader for Home Services appearing for the State of Telangana and its police officials, the successors-in-interest of the petitioners after the bifurcation of the erstwhile State of Andhra Pradesh, and Sri K.Aravind Kumar, learned counsel for the respondent-applicant.

The reason for rejection of the candidature of the respondent-applicant for appointment to the subject post was that he suppressed the factum of his involvement in Crime No.109 of 2004 registered under Section 324 read with Section 34 IPC on the file of Thorrur Police Station. It is an admitted fact that in his application form, the respondent-applicant did not reveal this aspect.

Sri K.Aravind Kumar, learned counsel, however placed before this Court a copy of the Award passed by the Lok Adalat in relation to the said criminal case and pointed out that in the said Award, the respondent-applicant was shown as one of the injured/affected parties and not the accused.

Learned Special Government Pleader was thereupon asked to get instructions on this aspect of the matter.

Today, the learned counsel representing the learned Special Government Pleader placed before this Court a copy of the First Information Report relating to Crime No.109 of 2004 on the file of Thorrur Police Station. Perusal thereof reflects that the complainant was one Nakirakanti Yakaiah S/o. Bikshamaiah and the name of the respondent-applicant, Nakirakanti Yakaiah S/o. Narsaiah, found mention as A2. The complaint contained specific details of the attack attributed to the respondent-applicant. It is therefore clear that the respondent-applicant was not an injured or affected party but was an accused in the said crime.

That being so, the learned Government Pleader for Service would state that the respondent-applicant is not entitled for consideration of his candidature in the light of the disqualifications prescribed in Rule 3(G) of the Andhra Pradesh Police (Stipendiary Cadet Trainee) Rules, 1999 (for

short, the Rules of 1999'), which 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.'

Though the learned counsel for the respondent-applicant would contend that the entire case law on the subject was reviewed by the Supreme Court in Avtar Singh v. Union of India¹ and the case of the respondent-applicant would have to be considered in terms of the conclusions summarized in para 38 thereof, it is to be noted that the conclusions drawn by the Supreme Court were not on the strength of any rules being considered and therefore the observations made therein

¹ (2016) 8 SCC 471

cannot be applied blindly without the Rules of 1999 being set aside upon an appropriate challenge being made to them.

As the respondent-applicant would fall under clause (i) in Rule 3(G) of the Rules of 1999, we are of the opinion that the direction of the Tribunal to consider his candidature for appointment and to send him for training cannot be sustained.

The writ petition is accordingly allowed setting aside the order dated 14.02.2012 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1155 of 2012.

At this stage, Sri K.Aravind Kumar, learned counsel, would point out that in certain cases, the Government of Telangana itself chose to relax Rule 3(G) of the Rules of 1999. He would place before this Court a copy of G.O.Rt.No.232, Home (General) Department, dated 10.02.2016, issued by the Government of Telangana in this regard in favour of three individuals.

In the light of the above, we make it clear that allowing of this writ petition would not preclude the authorities from considering as to whether the case of the respondent-applicant is a fit one for granting similar relaxation.

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: 10.12.2018
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