

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.21500 of 2015

ORDER:

This writ petition is filed seeking a writ of Mandamus, declaring the orders passed by the 3rd respondent vide proceedings dated 15.05.2015, deleting the name of the petitioner from the approved list of panel of contract Drivers, which was confirmed by the 2nd respondent vide proceedings dated 26.05.2015, as arbitrary, illegal and contrary to law, besides discriminatory and violative of Articles 14 and 16 of the Constitution of India, and sought a consequential direction to appoint the petitioner as contract Driver.

Heard Sri A.K.Jayaprakash Rao, counsel for the petitioner, and Sri A. Ravi Babu, Standing Counsel appearing for the respondent - Corporation.

It has been contended by the petitioner that he is fully eligible and qualified to be appointed as Driver, as he has got requisite experience to get appointed as Driver. The respondents have issued a notification inviting applications for the post of Driver on contract basis and the petitioner has responded to the said notification and, after undergoing regular selection process, the petitioner was selected and placed in approved list of panel of Drivers. In the Attestation Form, the petitioner has not furnished the information against column No.11 therein. Column No.11 of the Attestation Form reads thus:

“Have you ever been arrested by the police, convicted by a Court of law or detained under any Central preventive

detention laws for any offence? Whether such conviction sustained in the court of Appeal or set aside by the Appellate Court if appealed against.”

During verification, it has come to the notice of the respondents that the petitioner was convicted on 02.02.2012 in C.C.No.23 of 2012 on the file of the Judicial Magistrate of First Class, Peddapalli, for the offences under Sections 337 and 338 of IPC. In the said criminal case, since the petitioner has admitted the offences voluntarily, he was convicted and sentenced to pay a fine of Rs.300/- for the offence under Section 337 of IPC and Rs.700/- for the offence under Section 338 of IPC as a plea bargain. Therefore, the 3rd respondent deleted the name of the petitioner from the approved list of panel of Drivers vide proceedings dated 15.05.2015. Aggrieved by the same, the petitioner has preferred appeal to the 2nd respondent and the same was rejected vide orders dated 26.05.2015.

Counsel for the petitioner submitted that the petitioner was under bonafide impression that he was acquitted by the competent Criminal Court by imposing fine of Rs.1,000/- and he was not aware that he was convicted. Counsel further submitted that in **Avtar Singh v. Union of India**¹, a larger Bench of the Hon'ble Supreme Court considered the very same issue and summarized their conclusion in para 38 stating various parameters under which the cases of employees can be considered even if they have suppressed requisite information in regard to criminal prosecution, arrest or pendency of

¹ (2016) 8 SCC 471

any criminal cases against them. Therefore, counsel for the petitioner submitted that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for appointment to the post of contract Driver in terms of the parameters of the Hon'ble Supreme Court in **Avtar Singh**'s case referred supra.

Standing Counsel appearing for the respondents had contended that in the Attestation Form, the petitioner has suppressed the information about his conviction, therefore, his case was rightly rejected by the respondents and there are no merits in the writ petition and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions of learned counsel for respective parties, is of the considered view that nominal fine of Rs.1000/- was imposed by the competent criminal court and the charge leveled against the petitioner was for the offences under Sections 337 and 338 of IPC. Therefore, the case of the petitioner deserves to be considered in terms of the parameters of the Hon'ble Supreme Court in **Avtar Singh**'s case referred supra and the writ petition can be disposed of directing the petitioner to submit a fresh representation seeking his engagement as Contract Driver, within a period of four weeks from the date of receipt of a copy of this order and, upon such representation being received, the respondents shall consider the same by duly taking into account the parameters of the Hon'ble Supreme Court in **Avtar Singh**'s case referred supra and pass appropriate orders in another eight weeks thereafter.

With the above directions, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

27th August, 2019
v v

