

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.11260 of 2019

ORDER

This writ petition is filed seeking the following relief:

“.....to issue an appropriate writ, more particularly one in the nature of Mandamus or Certiorari or any other appropriate writ by declaring that the action of respondent No.1 passed a Memorandum *vide* Rc.No.144/R&T /Admn-4/2016-18, dt 08.08.2018 as illegal, arbitrary against the principles of natural justice, un-constitutional and contrary to the settled principles of law by calling for the records pertaining to police constable recruitment and consequently direct the respondents to consider the petitioner (734914) for the selection of SCT Police Constable (Civil-Men) in Recruitment-2012 and pass such other order or orders deems fit and proper in the interest of justice.”

Heard Sri Ch.Anjaneyulu, learned counsel appearing for the petitioner, and Sri M.V.Rama Rao, learned Standing Counsel appearing for the 1st respondent.

It is the case of the petitioner that pursuant to the recruitment Notification No.2012 issued by the 1st respondent for appointment to the post of Stipendiary Cadre Trainee (SCT) Police Constable (Civil-Men), he made an application and after undergoing regular selection process, he was provisionally selected for the post of Police Constable (Civil). However, during the course of antecedents verification, it has

come to the notice of the respondents that he was involved in Cr.No.123 of 2011 for the offences punishable under Sections 448, 324, 506 and 509 IPC of Uppal Police Station. The petitioner was convicted by the III Metropolitan Magistrate, LB Nagar, Rangareddy District, *vide* C.C.No.261 of 2011 dated 30.04.2013. Based on the said report, the provisional selection of the petitioner was cancelled *vide* proceedings dated 21.05.2016. In fact, questioning the conviction, the petitioner preferred Criminal Appeal No.842 of 2014 before the III Additional District & Sessions Judge, Ranga Reddy District, who *vide* judgment dated 27.5.2015 set aside the conviction and sentence imposed against him and acquitted the petitioner of the offences with which he was chargesheeted.

Questioning the cancellation of provisional selection, the petitioner had filed O.A.No.2434 of 2016 before the A.P.Administrative Tribunal, Hyderabad and the Tribunal *vide* order dated 12.07.2016 dismissed the same. Challenging the said order, the petitioner preferred W.P.No.28239 of 2016 and this Court dismissed the same on 23.4.2018 by granting liberty to the petitioner to submit a representation and the respondents were directed to pass appropriate orders on the said representation. In pursuance thereof, the petitioner

submitted a representation to the respondents on 19.5.2018. But the respondents have rejected his case *vide* order dated 8.8.2018. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that except reiterating the entire facts, the respondents have not considered the case of the petitioner within the parameters of the judgment of the Apex Court in *Avtar Singh vs. Union of India and others* (Civil Appeal No.20525 of 2011) and mechanically rejected his case and hence, the impugned order is liable to be set aside.

Learned Standing Counsel appearing for the 1st respondent contended that the case of the petitioner was examined in terms of the law laid down by the Apex Court in *Avtar Singh's* case (*supra*) and it was rejected on the ground that mere acquittal in a criminal appeal would not automatically entitle the petitioner to get reinstated into service and that there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the respondents have rejected the case of the petitioner by merely citing the judgment of the Apex Court in *Avtar Singh's*

case (supra) and with an observation that mere acquittal in criminal case does not automatically entitle for appointment to the post and still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. From the observations of the Apex Court in *Commissioner of Police vs. Mehar Singh*¹ and *State of M.P. & Ors vs. Parvez Khan* (Civil Appeal No.10613 of 2014 arising out of SLP (C) No.36237 of 2012), it is clear that a candidate to be recruited to the Police Service must be of impeccable character and integrity. A person having criminal antecedent will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honorably acquitted/completely exonerated. The above observation on which the case of the petitioner was rejected is the extract of the judgment of the Hon'ble Supreme Court. But the case of the petitioner deserves to be considered in terms of the parameters of *Avtar Singh's* case referred to supra. Since the respondents have not considered the case of the petitioner strictly in terms of the guidelines framed by the Apex Court in *Avatar Singh's* case (supra), the impugned order is liable to be set aside.

¹ 2013(7) SCC 685

Accordingly, the Writ Petition is allowed and the impugned order is set aside. The respondents are directed to consider the case of the petitioner strictly in terms of the guidelines framed by the Apex Court in *Avtar Singh's* case referred to supra and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

16th October, 2019
rkk

JUSTICE ABHINAND KUMAR SHAVILI

