

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.34849 of 2012

ORDER:

The writ petition is filed with the following prayer:

“... the Hon'ble Court may be pleased to call for records relating to the proceedings of the 5th respondent bearing No. V-15014/(04-11)/RSP/L&R//2011-6719 dated, 06-07-2011 as confirmed by the 4th respondent in Appeal bearing V-15014/CISF/RSP/(04-11), Appeal-36/LR/11-3111 dated 22-09-2011 and also as confirmed by the 3rd Respondent in Revision Order No.V-11015/ES/L&R/Rev-01/2012-4931, dated 30-04-2012 and set aside the same by issuing Writ of Mandamus by declaring it as illegal and violating Art.14, 16, 20 & 21 of the Constitution of India and pass such other order or orders or direction as this Hon'ble court deems fit and proper in the above circumstances.”

2. Heard Mr. Jagadeeshwar Reddy, learned counsel for the petitioner and Mr. K. Lakshman, learned Assistant Solicitor General.

3. Petitioner contends that he was initially appointed as Constable in the Central Industrial Security Force on 11.10.2008 and while he was discharging duties, it was alleged that he suppressed the fact of his involvement in a criminal case under Section 324 of the Indian Penal code in CC.No.411 of 2003 on the file of the Judicial First Class Magistrate, Mahabubabad, Warangal District and thereafter, the disciplinary action was initiated and after conducting detailed enquiry, the disciplinary authority imposed punishment of removal from service vide order dated 06.07.2011. Aggrieved by the same, the petitioner preferred an appeal to the appellate authority and it is contended that the appellate authority, without appreciating any of the grounds raised by the petitioner, had rejected the appeal vide order dated 22.09.2011. Thereafter, the petitioner preferred a revision

before the revisional authority and the revision was also rejected vide order dated 30.04.2012.

4. The counsel for the petitioner submits that the criminal case against the petitioner ended in compromise before the Lok Adalat vide order dated 15.11.2006 and the charges levelled against the petitioner in the criminal case are only causing hurt to the victim and the said charges are trivial in nature and does not amount to moral turpitude. It is further submitted that the petitioner was minor at the time of registration of the FIR. Therefore, the counsel for the petitioner submits that the Supreme Court in *AVTAR SINGH v. UNION OF INDIA* in SLP.No.20525 of 2011 dated 15.11.2017 relied on its earlier decision in *AVTAR SINGH v. UNION OF INDIA* [(2016) 8 SCC 471] wherein the Supreme Court laid down certain guidelines under which the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse. Therefore, the learned counsel for the petitioner submits that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner in terms of the law laid down by the Supreme Court in *AVTAR SINGH's* case supra.

5. Learned Assistant Solicitor General, appearing for the respondents, contended that the petitioner has suppressed the fact of his involvement in a criminal case, as such, the respondents have rightly initiated disciplinary action and removed the petitioner from service for proven misconduct in the enquiry. However, it is submitted that the case of the petitioner would be considered, in terms of the law laid down by the Supreme Court, if the petitioner submits a representation.

6. This Court, having considered the rival submissions made by both parties, is of the view that this writ petition can be disposed of directing the petitioner to submit a representation to the disciplinary authority seeking reinstatement into service within a period of two (2) weeks from the date of receipt of a copy of this order and upon such representation being received, the respondents – disciplinary authority shall consider the case of the petitioner duly taking into account the guidelines framed by the Supreme Court in *AVTAR SINGH*'s case *supra* and pass appropriate orders, in accordance with law, in another eight (8) weeks thereafter. It is made clear that the respondents shall consider the representation of the petitioner without being influenced by the earlier removal orders, as confirmed by the appellate authority and the revisional authority.

With the above observations, the writ petition is disposed of. Pending miscellaneous petitions shall stand closed. There shall be no order as to costs.

July 19, 2019
DSK

ABHINAND KUMAR SHAVILI, J