

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.47929 of 2018

ORDER:

This writ petition is filed seeking a Writ of Mandamus, directing the respondents to reinstate the petitioner into service as Home Guard with continuity of service, back wages from the date of termination vide proceedings dated 05.01.2013/08.01.2013 till the date of realization, and consequently declare the action of respondents in not reinstating the petitioner into service, as illegal, arbitrary, violative of Articles 14 and 21 of the Constitution of India and against the Rules made by the Police Department under Chapter 52 of Police Manual, Volume-3 as well as Order No.151 of Police Manual, Volume-1.

Heard Sri S.Chandra Sekhar, counsel for petitioner and the Assistant Government Pleader representing the Special Government Pleader, for respondents.

It has been contended by the petitioner that he was appointed as a Home Guard vide orders dated 23.05.2009 and he has been discharging his duties to the best satisfaction of his superiors and everyone concerned. The petitioner further contends that during the year 2010, a false criminal case was filed against him by one Sri Khader Ahmed and the petitioner was tried for the offence under Section 366(A) of IPC in Crime No.62 of 2010. The petitioner was convicted by the Assistant Sessions Judge concerned in Sessions Case No.543 of 2011, vide orders dated 01.10.2012 and sentenced the petitioner to undergo imprisonment for a period of five years. Aggrieved by the same, the petitioner has preferred Criminal Appeal No.86 of 2012 and the Sessions Court,

Mahabubnagar partly allowed the appeal vide orders dated 07.02.2013 and reduced the period of imprisonment from 5 years to 3 years. Thereafter, petitioner has preferred Criminal R.C.No.261 of 2013 and this Court acquitted the petitioner by setting aside the conviction, vide orders dated 24.08.2018. Thereafter, petitioner has submitted a representation to the respondents on 31.10.2018 requesting to reinstate him by duly taking into account the judgment rendered by this Court in Criminal R.C.No.261 of 2013, dated 24.08.2018, but the respondents have not passed any orders on the said representation. It is contended that appropriate orders be passed in this writ petition directing the respondents to consider the representation dated 31.10.2018 in accordance with law.

Counsel for petitioner further contend that the Hon'ble Supreme Court in **Avatar Singh v. Union of India and others**¹, has given elaborate guidelines for consideration of the cases of employees convicted in a criminal case and subsequently acquitted from the criminal case, and contended that appropriate directions be issued to the respondents to consider the case of the petitioner in terms of the aforesaid judgment and pass appropriate orders.

Learned Assistant Government Pleader appearing for the Special Government Pleader contended that appropriate orders would be passed on the representation submitted by the petitioner in accordance with law.

This Court, having considered the rival submissions of the parties, is of the considered view that this writ petition can be disposed of

¹ 2016 (8) SCC 471

directing the respondents to consider the representation dated 31.10.2018 submitted by the petitioner, by duly taking into account the judgment rendered by the Hon'ble Supreme Court in **Avatar Singh's** case (supra) and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

With these observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

2nd January, 2019

ajr

ABHINAND KUMAR SHAVILI, J

