

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.1891 OF 2018

DATED : 24.01.2020

Between :

Srinivas Avunuri, S/o.Odelu,
Aged about 27 yrs, R/o.4-30,
Ambedkar Nagar, Julapally,
Kamanpur, Karimnagar District.

.....Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary,
Home Department, Secretariat Buildings,
Secretariat, Hyderabad,
Telangana & others.

.....Respondents



The Court made the following:

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ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Home appearing for respondents 1, 2 and 4, and learned Standing Counsel appearing for respondent No.3.

2. The recruitment notification was issued on 31.12.2015 to recruit various posts in the category of Stipendary Cadet Trainee Police Constables, Civil, Armed Reserve, SAR CPL, TSSP, SPF and Firemen. Though the petitioner was provisionally selected, vide Memorandum dated 22.08.2017, his provisional selection was cancelled on the ground that he has not disclosed his employment in Indian Army in the online application filed by him and the same would amount to suppression of fact. Challenging the said Memorandum, this writ petition is filed.

3. According to learned counsel for the petitioner, non-mentioning of employment in Indian Army is not so fatal to vitiate selection of the petitioner and he ought to have been appointed, instead of cancelling his provision selection. In support of the said contention, reliance is placed on the decision of a learned Single Judge of this Court in W.P.No.6174 of 2018, wherein a similar Memorandum was challenged. The learned Single Judge, following the decision of Hon'ble Supreme Court in ***Avtar Singh Vs Union of India and Others***¹, disposed of the said writ petition, vide order dated 06.06.2019, and the matter was remitted to reconsider the case of the petitioners therein,

¹ (2016) 8 SCC 471

strictly in accordance with the principles laid down by the Hon'ble Supreme Court in **Avtar Singh** (supra).

4. Learned Standing Counsel, points out that petitioner did not disclose his employment in Indian Army and his dismissal from service. Petitioner was dismissed from service by order dated 30.11.2016, on the ground of long absence from duties. In the attestation form for antecedent verification filled in by the petitioner, against Column No.10, he stated that he has resigned to Indian Army Service, which is again a wrong statement. He would further submit that in view of the provision contained in Rule 12 (4)(d) of the Telangana State and Subordinate Service Rules, 1996 (for short 'the Rules') a person who is already dismissed from service, either in the State Government or in the Central Government or in the State Enterprises/Organizations is not entitled to seek employment in the State Service.

5. Before cancellation of the provisional selection, a show cause notice dated 31.05.2017 was issued to the petitioner, wherein he was asked to show cause as to why the factum of his employment in Indian Army was not mentioned in the online application and, therefore, why his provisional selection should not be cancelled on the ground of suppression of the said information. In response, the petitioner stated in his explanation dated 01.06.2017, that there was no material available with him, with reference to his employment in Indian Army and, therefore, he could not mention the same in the online application form. Further, on realizing his mistake, he has mentioned about his employment in Indian Army in attestation form and it was not a

deliberate mis-statement. In the said explanation, the petitioner also disclosed that he was removed from service.

6. It is not in dispute that the petitioner was earlier employed in Indian Army and was dismissed from service on the allegation of long absence. The same fact was intimated to the mother of petitioner by the Indian Army, vide proceedings dated 30.11.2016. Though the said intimation may not be available with the petitioner by the time he filed application responding to the recruitment notification, but cannot say that he was not aware of dismissal from service in Indian Army. Further, in the attestation form, which was filled after his provisional selection i.e., on 08.03.2017, he has stated as if he resigned to the Indian Army Service, whereas he was actually dismissed from service from the Indian Army. Therefore, it is not a simple case of non-disclosure of information, which is not crucial to assess the suitability of petitioner for service in State Police/Fire Service. Therefore, it would amount to a clear mis-statement of fact, knowing fully well about what he was saying. It would amount to clear suppression. In the facts of this, the principle laid down by the Hon'ble Supreme in **Avtar Singh** (supra), is not attracted. Such person does not deserve to be employed in the Police Service/Fire Service.

7. Further, Rule 12 (4)(d) of the Rules, reads as under :

“No person who has been dismissed from a State or Central Government service or from the service of Central or State Government undertaking or local or other authorities or who has been convicted by a court of law for an offence involving moral turpitude shall be eligible for appointment to any State or Subordinate Service.”

8. According to this Rule, a person earns disqualification to seek employment in State service, if he was dismissed from service by State Government or Central Government or Public Sector Undertaking. In the instant case, the petitioner was dismissed from Central Government service. Thus, he has acquired disqualification in terms of the said provision also. Thus, looking from any angle, the petitioner is not entitled to seek employment in various wings of Police Service/Fire Service.

9. Therefore, cancellation of provisional selection of the petitioner cannot be held to be vitiated, thereby warranting interference by this Court. Writ Petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand closed.

24th January, 2020
Rds

P.NAVEEN RAO,J