

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9076 of 2017

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Sonu Kumar Singh Son of Sri Sharada Singh Resident of Village-Dhobahi,
Post-Banni, Police Station-Dhansoin District-Buxar, Bihar,.

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The Director General, Central Reserve Police Force, Head Quarter, New Delhi
3. The Inspector General, Range Office, Central reserve Police Force, Patna. Near Ashiyana Digha Road, null null
4. The Deputy Inspector General Range Office, Central reserve Police Force, Patna Near Ashiyana Digha
5. The Commandant Central reserve Police Force, Block Colony, Latehar, Jharkhand

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Choudhary Shyam Nandan

For the Respondent/s : Mr. S.D Sanjay Addl. Soc. Gen.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 02-12-2021

Heard learned counsel for the parties.

In the instant petition, petitioner has prayed for
following relief/reliefs:

“This writ petition is being filed for the issuance of writ/ writs, direction/directions, order/orders, command/commands and further for the issuance of writ in the nature of certiorari to quash the order dated 24.5.2017 passed by Respondent no. 2 in pursuance of Revision filed under Rule 29 of Central Reserve Police Force Rule 1955 contend in Letter no. R.XIII-82/2017 Vig (legal) dated 24.5.2017 (Annexure), further for quashing of the order dated 16.11.2016 passed by Respondent no. 3 contend in Letter no. R13-II(SKS)/2016-BS-EC-III by which the Appeal preferred by the Petitioner has been dismissed and petitioner further



prays for quashing of the office order dated 03.8.2016 contend in Letter No. T.V.-1/2016-11-EC-1 issued from the office of Commandant under signature of Commandant XI Battalion, Central reserve Police Force, Latehar, Jharkhand, Respondent no 5, whereby and where under the petitioner, Force No. 155200356 RT/Cook, (presently under going basic training at GC, Central Reserve Police Force, Muzaffarpur) has been terminated under Rule 5(1) Central Civil Service (Temporary Services) Rules, 1965, here in referred as C.C.S.(T.S.) Rule, 1965, with effect from 7.8.2016 i.e. the same date and has also struck off from the strength of the Unit with effect from the same date i.e. 7.8.2016, Petitioner further prays for a writ in the nature of mandamus directing the Respondent Authorities after quashing the above stated Revisional, Appellate and Termination orders reinstate the petitioner in Central reserve Police Force on his previous post along with all the consequential benefits as reformative approach, which should be adopted instead of branding him as a criminal for his whole life where the Learned trial court itself finally acquitted the petitioner and Petitioner further prays for grant of any other relief/reliefs for which the petitioner found entitled in the facts and circumstances of this case be also given.”

Petitioner was a candidate for recruitment to the post of Constable Cook with the respondent. He was selected and appointed on 25.07.2015 and his services was transferred for training and he has undergone nine to ten days training. In the meanwhile respondent proceeded to gather antecedents of the petitioner. Verification report of District Magistrate, Buxar reveals that petitioner was involved in criminal case. The same has been taken note of and terminated the services of the petitioner on the score that he has mislead respondent Department while filling up of application form in particularly para 12 (i) which reads as under:



“Is any case pending against you in any Court of Law at the time of filling up this Verification Roll ?”

For which petitioner has furnished information that he is not involved in any of the criminal case and it is contrary to factual aspect as is evident from the verification report of District Magistrate, Buxar. Even the application form for the post of Constable Cook reveals that if a candidate furnishes any false information. He is not entitled to continue in service. In the light of these facts and circumstance and the fact that petitioner has suppressed the pendency of criminal case, he is not entitled to the relief sought in the present petition. Even though he has been acquitted in the criminal case on 18.12.2015 (Annexure 9) that does not assist the petitioner having regard to the fact that he has suppressed the material information that too he has joined disciplined force. At the time of joining itself if he has suppressed the material information, one can draw inference as to what type of service he is likely to render with the official respondent.

Apex Court in the case of ***State of Rajasthan and Others vs. Love Kush Meena (2021) 8 Supreme Court Cases 774 paragraphs 24 to 29*** held as under:

“24. Examining the controversy in the present case in the conspectus of the aforesaid legal position, what is important to note is the fact that the view of this Court has depended on the nature of offence charged and the result of the same. The mere fact of an acquittal would not suffice but rather it would depend on whether it is a clean acquittal based on total



absence of evidence or in the criminal jurisprudence requiring the case to be proved beyond reasonable doubt, that parameter having not been met, benefit of doubt has been granted to the accused. No doubt, in that facts of the present case, the person who ran the tractor over the deceased lady was one of the other co-accused but the role assigned to the others including the respondent herein was not of a mere bystander or being present at site. The attack with knives was alleged against all the other co-accused including the respondent.

25. We may also notice this is a clear case where the endeavour was to settle the dispute, albeit not with the job in mind. This is obvious from the recital in the judgment of the Trial Court that the compoundable offences were first compounded during trial but since the offence under [Section 302/34](#) IPC could not be compounded, the Trial Court continued and qua those offences the witnesses turned hostile. We are of the view that this can hardly fall under the category of a clean acquittal and the Judge was thus right in using the terminology of benefit of doubt in respect of such acquittal.

26. The judgment in Avtar Singh's case (supra) on the relevant parameter extracted aforesaid clearly stipulates that where in respect of a heinous or serious nature of crime the acquittal is based on a benefit of reasonable doubt, that cannot make the candidate eligible.

27. We may also note the submission of learned counsel for the respondent that as per para 38.3 in Avtar Singh's case (supra), the employer has to take into consideration the Government orders/instructions/rules applicable to the employee at the time of taking a decision. It is her say that the issue whether the circular dated 28.03.2017 would apply or not was res integra in view of the earlier order of the learned Judge dated 14.05.2018. She has further contended that, in any case, the circular had come into force and as per the judgment in Avtar Singh's case (supra) para 38.4, it is the date of decision which is material and as on the date of decision dated 23.05.2017, the said circular was applicable.

28. We may note here that the circular dated 28.03.2017 is undoubtedly very wide in its application. It seeks to give the benefit to candidates including those acquitted by the Court by giving benefit of doubt. However, such circular has to be read in the context of the judicial pronouncements and when this Court has repeatedly opined that giving benefit of doubt would not entitle candidate for appointment, despite the



circular; the impugned decision of the competent authority dated 23.05.2017 cannot be said to suffer from infirmity as being in violation of the circular when it is in conformity with the law laid down by this Court.

29. We are, thus, of the view that the impugned orders cannot be sustained and the appellants are well within their rights to have issued the order dated 23.05.2017.”

It is held that suppression of material information at the time of joining service in particular criminal proceedings, such a candidate is not entitled to any relief at the hands of the Court. Thus, petitioner has not made out a case. Hence the present petition stands dismissed.

At this juncture, learned counsel for the petitioner submitted that petitioner has not been provided an opportunity before his termination. It is to be noted that even if an opportunity is given to him, he cannot improve the fact that pendency of criminal proceedings, therefore, it would be only empty formality of issuance of show cause notice and obtaining his explanation and it will not serve the purpose. There is no inviolable rule that a personal hearing of the affected party must precede every decision of the State.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.12.2021
Transmission Date	NA

