

IN THE HIGH COURT AT CALCUTTA
(Appellate Side)
CONSTITUTIONAL WRIT JURISDICTION

W.P.S.T. 30 of 2020
Date of decision:-24.03.2021

Ashok Chowdhury

...Petitioner

-versus-

State of West Bengal & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANIRUDDHA ROY

Present:- Md. Mokaram Hossain,
Mr. Kamakhya Prasad Mukhopadhyay and
Mr. Sandipan Maity, Advocates

...for the petitioner

ORDER

1. None represents the State.
2. This writ petition has been filed assailing the order dated August 14, 2018 passed by the West Bengal Administrative Tribunal, Kolkata (for short, 'the Tribunal') in O.A. No. 674 of 2016 (Ashok Chowdhury vs. State of West Bengal & Ors.) (for short, the Original Application) vide which the Original Application filed by the writ petitioner, was dismissed.
3. The petitioner was appointed as Police Driver in Kolkata Police w.e.f. February 22, 2013. Prior to his joining he was implicated in a

criminal case in 2010. Concealing such fact deliberately and willfully, he applied for his employment with the Police Department. After he started serving the Police Department, the said fact of concealment was revealed and he was discharged from service vide D.O. No. 58 dated February 8, 2014. The said discharge Memo dated February 8, 2014 was challenged by the petitioner in a previously instituted Original Application vide OA No. 367 of 2014. The same was dismissed by the Tribunal vide order dated September 28, 2015. Such adjudication attained finality and is binding on the petitioner.

4. The petitioner then was acquitted from the criminal charges by the jurisdictional Criminal Court and thereafter made a representation before his employer on March 18, 2016 admitting his guilt and prayed for reinstatement in the service by setting aside the discharge memo dated February 8, 2014.

5. On perusal of the said discharge memo it appears that, the principle ground for his discharge from service was deliberate and willful concealment of fact of his involvement in the criminal case, while applying for the employment. The said issue had already been adjudicated upon finally in the previous OA No. 367 of 2014 filed by the petitioner.

6. In the Original Application being OA 674 of 2006, in which the impugned order had been passed the principle relief claimed by the petitioner was reinstatement in his service on the ground of acquittal from the criminal charges. Since the reason for issuing the discharge memo had already been upheld by the Tribunal in the previous Original

Application and the issue being decided finally there was no scope for filing the said second Original Application. The ground for discharge from the employment was the deliberate concealment of pendency of the criminal proceeding by the petitioner at the time of applying for employment and, therefore, the changed circumstances due to acquittal would not have and cannot have any effect on the ground for discharge.

7. On behalf of the petitioner it was argued that, the suppression of fact in the case in hand had no material bearing in the decision of the employer for discharge of the petitioner from service since the writ petitioner subsequently was acquitted. The nature of suppression was too/mere technical or trivial. It could not have been the ground for the discharge of service of the petitioner. To support such contention reliance was placed on judgment of Hon'ble the Supreme Court in Avtar Singh vs. Union of India, reported at (2016) 8 SCC 471.

8. It is pertinent to mention here that, the charge against the petitioner leading to discharge from his service by the State employer was not the pendency of criminal case against him but simpliciter willful and deliberate suppression of the pending criminal case against him when he applied for employment. Such allegation was also not denied by the petitioner. Hence, mere acquittal in the criminal case will not give him a fresh cause of action to challenge his discharge from service which has already been upheld by the Court.

9. In view of the foregoing discussions and on perusal of the material before this Court, this Court is of the firm view that the impugned order deserves no interference.

10. Thus, the present writ petition being **W.P.S.T 30 of 2020** stands dismissed.

11. There shall, however, be no order as to costs.

(Rajesh Bindal)
Judge

(Aniruddha Roy)
Judge

Kolkata
24.03.2021
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P.A. (RM)