

14.11.2022
DL-14
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 22413 of 2022

Hasidul Islam
Vs.
Union of India & Ors.

Mr. Pinaki Ranjan Chakraborty
....for the petitioner.

Mr. Dipankar Dandhpath
....for Union of India.

Affidavit of service filed in Court today is retained with the records.

The petitioner's case is that the petitioner was issued an offer of appointment dated March 16, 2021 as a Constable in Sashastra Seema Bal, District - Supaul (Bihar). Thereafter, the petitioner's representations for extension of the joining period dated June 20, 2021, July 29, 2021 and August 23, 2021 to the post of the constable were all rejected. The rejection letter is dated August 26, 2021. The offer of appointment issued to the petitioner on March 16, 2021, clearly stipulated that the same would lapse after expiry of 6 months. Since the petitioner failed to join by the stipulated date, his offer letter was cancelled by a Memorandum dated February 21, 2022.

Mr. Chakraborty, learned counsel, appearing on behalf of the petitioner submits that the petitioner could not join since a criminal case was pending in the Court of Additional Sessions Judge, 1st Court, District – Malda against him, being P. S. Case No.435/2016 dated October 6, 2016. The judgment and order in the said case was passed on May 4, 2022 whereby the petitioner was honourably released. Therefore, the failure on the part of the petitioner to provide the necessary character certificate was not due to his own fault. Since the order/judgment passed by the criminal court was after the expiry of 6 months from the offer of appointment, the petitioner should not be penalised due to no fault of his own. He prays for setting aside and/or cancellation of the memorandum dated August 3, 2022 given in response to his prayer/representation and reconsideration of the petitioner's offer of appointment.

Mr. Dandhpath, learned counsel, appearing on behalf of the respondents submits that the petitioner has approached this Hon'ble Court with unclean hands. He draws the attention of this Court to Rule 4(h) of the Memorandum dated March 16, 2021 issued by the Directorate General, Sashastra Seema Bal, Ministry of Home Affairs, Government of India in

support of his contention that in the event a case is prosecuted against a candidate in any court of law, copy of the orders passed by the court have to be submitted and if the case is pending against a candidate, copy of the complete case documents were required to be submitted. He further argues referring to column 12 of the 'verification roll' submitted by the petitioner that the same was left blank by him. The petitioner neither submitted the complete case documents nor made any statement with regard to the fact whether he was arrested/prosecuted etc. that he was mandatorily required to do.

Having considered the rival submissions of the parties and the materials placed on record, this Court is of the view that the petitioner has deliberately left column 12 blank in the 'verification roll' submitted by him. Furthermore, the petitioner also failed to comply with the mandatory requirement of producing the entire case documents since a court case was pending against him.

Having approached this Hon'ble Court with unclean hands, the petitioner is not entitled to any relief under Article 226 of the Constitution of India.

In the light of the discussions above, **WPA 22413 of 2022** is **dismissed** without any order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)