

27.02.2023
DL-43
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15632 of 2021

Sri Jayanta Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Mukhopadhyay
....for the petitioner.

Ms. Chandreyi Alam,
Ms. Runu Mukherjee
....for the respondents/Union of India.

The petitioner's grievance is that despite being acquitted by the Judicial Magistrate, 3rd Court Katwa on December 9, 2020 in a criminal proceedings his prayer for reinstatement was not considered by the Inspector General of Police, CRPF. The petitioner's prayer for reinstatement was rejected by an impugned order dated May 27, 2021 since the petitioner has approached the authorities after 13 years. The time to prefer an appeal was 3 months. It was recorded in the impugned order that as per the provisions of 5 (2)(a) of Central Civil Service (Temporary Service), Rules 1965 "except in special circumstances, which should be recorded in writing, no case shall be reopened under this sub-rule after the expiry of three months".

It was argued on behalf of the petitioner that his case was one where special circumstances should

have been considered since he was acquitted in the Katwa P. S. Case 155 of 2002.

Ms. Alam, learned counsel appearing on behalf of the respondents submits that the petitioner was terminated from services since he was engaged in temporary service and could only pray for confirmation after completion of 3 years of service. The petitioner was appointed as a Constable in the Central Reserve Police Force (CRPF) provisionally and could be terminated without assigning any reason. Copy of the written instructions handed over in Court today by Ms. Alam is retained with the records.

After considering the rival submissions of the parties and the materials placed on record, this Court finds that by a judgment passed by a Coordinate Bench on August 1, 2008 it has been held that the petitioner's appointment did not have any existence in the eye of law since a criminal case was pending at the time of his appointment. The petitioner in the verification roll furnished by him regarding the questions whether he was ever arrested, prosecuted, kept under detention or bound down/fined, convicted by a court of law or whether any case was pending against him in any court of law declared "No" as answers to such queries. The Hon'ble Coordinate Bench held where thousands of unemployed youths

are standing in the queue for some sort of employment, there was hardly any reason for showing undue sympathy to the writ petitioner. Therefore, the writ petition being WP No. 17283 (W) of 2007 was dismissed. The said decision was upheld by the Hon'ble Division Bench of this Court in FMA 171 of 2009. The Hon'ble Appeal Court was of the view that the very entry of the appellant was wrong. He gave incorrect details at the time of entry in service. He made suppression of facts. Therefore, the authority was entitled to terminate him at any time prior to his regularisation without proceeding against him departmentally on that score.

This Court finds that there is no arbitrariness or perversity in the order dated May 27, 2021 since it clearly records that the petitioner has furnished false information to the department and denied the involvement in any Court/criminal case in column 12 of the character and verification roll. Therefore, the authority did not consider the petitioner's case to be one in which the special circumstances rule may be applied.

This Court relies on **Kendriya Vidyalaya Sangathan & Ors. Vs. Ram Ratan Yadav** reported in (2003) 3 SCC 437 for observing that a candidate having suppressed material information and/or giving

false information cannot claim right to continue in service.

In the light of the discussions above, this Court finds that the writ petition is wholly misconceived and, therefore, **WPA 15632 of 2021** is **dismissed**.

Since no affidavits have been directed to be exchanged in the writ petition, all the allegations contained therein are deemed not to have been admitted by the respondents.

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.)