

**BASAVRAJ
GURAPPA
PATIL**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1612 OF 2018

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BASAVRAJ GURAPPA
PATIL

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Prashant Nana Patil

..... Petitioner

Vs.

Union of India & Ors.

..... Respondents

Mr. Subhash B. Desai for the Petitioner

Mrs. S. V. Bharucha a/w. Mr. Advait Sethna and Mr. A. A. Ansari for
the Respondent Union of India.

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : JANUARY 31, 2023

ORAL JUDGMENT (PER : ACTING CHIEF JUSTICE)

1. Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

2. The Petitioner was appointed as Constable/GD with Central Reserve Police Force (CRPF) on or about 7th October 2014. The Petitioner was terminated from service on 28th November 2016. The representation filed by the Petitioner is dismissed. Aggrieved thereby, the present Writ Petition.

3. The learned Counsel for the Petitioner submits that the

Petitioner was appointed as a Constable after due selection process. The Petitioner is terminated from service only on the ground that the Petitioner had written "NO" in the verification form against the column "*whether the Petitioner was arrested, prosecuted, kept under detention or bound down / fined, convicted by a court of law for any offence*". According to the learned counsel, a criminal case filed against the Petitioner was compromised and the criminal proceedings were quashed by the Division Bench of this Court at Aurangabad on 7th October 2014. On 7th October 2014, the Petitioner was appointed as a Constable. The verification form was filled in by the Petitioner on 8th November 2014 and as the criminal case was already quashed on the date the verification form was filled in, the Petitioner had written "NO" against the column "*whether the Petitioner was arrested, prosecuted, kept under detention or bound down / fined, convicted by a court of law for any offence*". The learned counsel relies on the judgment of the apex court in the case of ***Commissioner of Police and Ors. Vs. Sandeep Kumar 2011 (4) SCC 644***. The learned Counsel submits that in the case of similarly situated employee the Respondents have taken a liberal view and have reinstated him in service though the said employee was also prosecuted and he had mentioned "NO" against the similar column.

4. The learned Counsel for the Respondents submits that the Petitioner has willfully made a wrong statement that he was not prosecuted for the criminal case. The Petitioner was appointed in the year 2014. The verification form was filled in and clause 12(a) which mandated him to declare as to *“whether the Petitioner was arrested, prosecuted, kept under detention or bound down / fined, convicted by a court of law for any offence”*, the Petitioner had said “NO”. Same was against the facts on record. The Respondents could get the knowledge of the same after the police verification. The Superintendent of Police, Jalgaon, under letter dated 18th January 2016 had informed that a case was lodged against the Petitioner on 16th January 2013 in respect of an incident that occurred on 10th January 2013 for the offence punishable under sections 325, 323, 504, 506 read with section 34 of the Indian Penal Code. As a wrong statement was made, the Petitioner was rightly terminated from service. Reliance is placed on Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. As a wrong information was filled in, the Respondents were within their right to terminate the Petitioner. The Petitioner was not confirmed in service.

5. We have considered the submissions. It is not disputed that

after following due process, the Petitioner was selected and appointed as a Constable / GD with CRPF under order dated 7th October 2014. It appears that on or about 8th November 2014 the Petitioner filled in Verification Form. Clause 12(a) of the Verification Form is in bilingual. The same reads thus:

“12(a) Have you ever been arrested, prosecuted, kept under detention or bound down / fined, convicted by a court of law for any offence or debarred / disqualified by any Public Service Commission from appearing at its examination / selections, or debarred from taking any examination / rusticated by any university or any other education authority / Institutions?”

The Petitioner answered “NO” to this clause. It appears from the record that the Petitioner was prosecuted for the offences punishable under sections 325, 323, 504, 506 read with section 34 of the Indian Penal Code.

6. The charge-sheet was also filed. The matter appears to have been compounded between the parties. Same is clear from the judgment in Criminal Writ Petition No.1165 of 2014 filed by the Petitioner and others. In the said judgment, it was observed that the offence registered against the Petitioners were not serious in nature. Petitioner No.2 in the said Writ Petition (the Petitioner herein) was a young boy at that time having no criminal antecedents and had been selected as a constable to join CRPF. The said aspect was considered by the Division Bench of this Court at Aurangabad while quashing

the proceedings.

7. The Apex Court, in the case of *Commissioner of Police and Ors. Vs. Sandeep Kumar (supra)* has observed that youth often commit indiscretions, which are often condoned. It is true that in the application form the respondent did not mention that he was involved in a criminal case. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. The Court further observed that, it is not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.

8. The facts of the present case are similar to the facts in the case of *Sandeep Kumar (supra)*. In the present case also, the matter is compounded between the parties.

9. It would further appear that the Respondents have applied different yardstick to the Petitioner and other employee. In the case of similarly situated employee Batti Lal Meena who had also scribed "NO" in column 12(a) though the criminal case was registered against him under sections 147, 323, 325, 307 of the Indian Penal Code and he was acquitted. The Respondents set aside the termination order and reinstated him in service.

10. The matter is pending in this Court since the year 2017. The pendency of the matter would not be held against the Petitioner.

11. Considering the aforesaid factual matrix in the matter, we are inclined to exercise our writ jurisdiction under Article 226 of the Constitution of India and pass the following order:

- a. The impugned order terminating the Petitioner from service is quashed and set aside.
- b. The Respondents shall reinstate the Petitioner in service within one month.
- c. The Petitioner will be entitled for the continuity in service, however, considering the facts of the present case, we are not inclined to grant back wages to the Petitioner.
- d. Rule is accordingly made absolute in the above terms.
- e. The Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)