IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

121 CWP-15969-2023
Date of Decision : 01.08.2023

Sanjeet Malik ..... Petitioner

Versus

Canara Bank and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Sunil Kumar Nehra, Advocate and
Mr. Viren Nehra, Advocate
for the petitioner.

Ms. Raheesh Pahwa, Advocate
for the respondents.

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JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of orders dated 11.06.2020 (Annexure P-7), 04.07.2020 (Annexure P-9) and 18.07.2022 (Annexure P-12) whereby he has been terminated from service and his appeals have been dismissed.

2. The case of the petitioner is that he applied for the post of Probationary Officer and he was selected on 04.06.2018. The petitioner was served notice on 15.11.2019 pointing out that an FIR No.904 dated 14.11.2015 was registered against him and it is still pending. The petitioner was called upon to show cause as to why his services should not be terminated. The petitioner filed reply to aforesaid notice. The respondent vide order dated 11.06.2020 terminated petitioner from the service. The petitioner preferred an appeal against order of termination, however, the

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Appellate Authority vide order dated 04.07.2020 dismissed the appeal. The petitioner came to be discharged from criminal proceedings vide order dated 06.05.2022 passed by Additional Sessions Judge, Jind. The petitioner again preferred an appeal pointing out that no charge has been proved against him, thus, he be reinstated. The Appellate Authority vide impugned order dated 18.07.2022 has dismissed appeal of the petitioner.

3. Mr. Nehra, Advocate *inter alia* contends that the petitioner was not named in the FIR, however, he was arrested on 16.11.2015 and on the very next day i.e. 17.11.2015, he was released on bail. The police after completing investigation filed its report, however, trial Court vide order dated 06.05.2022 has discharged the petitioner even though the trial has proceeded against other accused. The petitioner was wrongly implicated in the FIR and has been discharged, thus, the Appellate Authority was supposed to consider case of the petitioner in the light of findings recorded by a three-judge Bench judgment of Hon'ble Supreme Court in ***Avtar Singh vs. Union of India and others, 2016(8) SCC 471***.

4. Ms. Raheesh Pahwa, Advocate for the respondents, who on advance notice is present in Court, submits that a two-judge Bench of Hon'ble Supreme Court in ***Satish Chandra Yadav vs. Union of India and others, 2022 SCC OnLine SC 1300*** has upheld order of termination where the appellant was on probation and during verification, it was found that he has not disclosed the pendency of FIR in the application form. The Court has noticed its precedent including judgment of ***Avtar Singh's case (supra)*** and thereafter dismissed appeal of the appellant therein.

5. On being confronted with aforesaid judgment, Mr. Nehra

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submits that a three-judge Bench judgment of Hon'ble Supreme Court in ***Avtar Singh's case (supra)*** is still holding the field and this Court should follow the judgment of Hon'ble Supreme Court in ***Avtar Singh's case (supra)*** instead of a two-judge Bench of Hon'ble Supreme Court in ***Satish Chandra Yadav's case (supra).***

6. I have heard the arguments of learned counsel for the parties and with their able assistance perused the record.

7. From the perusal of application form along with attestation form, it comes out that there was a particular column enjoining the petitioner/candidates to disclose factum of criminal proceedings. Para 12 of the attestation form reads as :

> *"Have you ever been arrested, or kept under detention or bound down/fined/convicted by a court of law for any offence, or debarred/disqualified by the Public Service Commission from appearing at its examination or restricted by authority/institution? No*
> *If the answer is "Yes", full particulars of the case detention, fine, conviction, sentence, etc should be given:"*

8. From the perusal of above-quoted column 12 of the attestation form, it is quite evident that petitioner was bound to disclose factum of his arrest. Indubitably, the petitioner was arrested though released on bail on the very next day. A two-judge Bench judgment of Hon'ble Supreme Court in ***Satish Chandra Yadav's case (supra)*** has dismissed appeal after considering a three-judge Bench judgment of Hon'ble Supreme Court in ***Avtar Singh's case (supra)*** as well as a number of other judgments. In the said case, the appellant had not disclosed pendency of FIR against him.

In the case in hand, the petitioner was arrested and proceedings

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were pending against him still he opted not to disclose factum of his arrest and pendency of criminal proceedings. The case of the petitioner is squarely covered by judgment of Hon'ble Supreme Court in ***Satish Chandra Yadav's case (supra).*** The competent authority as well as Appellate Authority has rejected claim of the petitioner considering the fact that petitioner has failed to disclose his true particulars. The Hon'ble Supreme Court in ***Satish Chandra Yadav's case (supra)*** has noticed scope of interference in such cases and has come to conclusion that unless it is shown that exceptional and special circumstances exist or substantial and grave injustice have been done, the Supreme Court would not exercise its overriding power under Article 136 of the Constitution of India.

9. In the present case, there is no allegation of *malafide* on the part of respondent and act of respondent does not amount to substantial and grave injustice. In view of judgment of Hon'ble Supreme Court in ***Satish Chandra Yadav's case (supra),*** this court does not find it appropriate to invoke its jurisdiction under Article 226 of the Constitution of India to set aside the impugned orders.

10. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

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Whether speaking/reasoned	Yes/No
Whether Reportable	*Yes/No*

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