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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 30.11.2023

+ **W.P.(C) 15404/2023 & CM APPL. 61776/2023**

ROHIT

..... Petitioner

Versus

INDIAN COAST GUARD & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners:

Mr. Abhinay Sharma, Advocate.

For the Respondent:

Mr. Balendu Shekhar, CGSC with Mr. Krishna Chaitanya, Advocate

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns the rejection of his candidature, for appointment to the post of Navik (Domestic Branch) of the Indian Coast Guard, on the ground of suppression of pendency of criminal proceedings against him. Respondent had published an advertisement for recruitment to the post of Navik (General Duty) and Navik (Domestic Branch) of the Indian Coast Guard.

2. Petitioner applied pursuant to the said advertisement and filled up an online application form on 13.02.2023. The application required



the applicant to *inter alia* disclose as to whether any proceedings in respect of any offence alleged to have been committed was pending before a Criminal Court in India.

3. In case of petitioner an FIR was registered on 25.01.2023 under Sections 148, 149, 320, 341, 379, 427 and 506 IPC in which petitioner was arrayed as one of the accused. In the online application form, the response given by the Petitioner to the above referred question i.e. pendency of any proceedings before a Criminal Court, was in the negative.

4. Thereafter, at the time of document verification, petitioner in the verification form filled up on 07.11.2023 made a disclosure about the pendency of the subject FIR.

5. As per the petitioner the online application form was filled up at a Cyber Café. It is contended that the brother of the petitioner, who was also an applicant and against whom there was no case pending, filled up his application first and he had responded to the answer in the negative and the same answer was copied in the online application form of the petitioner.

6. Learned counsel for the petitioner, further submits that an error had crept in the online application form but a disclosure was made by the Petitioner in the document verification form which was filled up on 07.11.2023. He submits that by that time Petitioner had already



been acquitted in the subject FIR. He submits that a settlement had been arrived with the complainant of the FIR on 13.02.2024.

7. *Per contra* learned counsel for the respondent submits that since the respondents carry out police verification and the applicants have to submit a police verification report from the local police station, petitioner was constrained to make the disclosure as the information would have been mentioned in the police verification form. He draws attention to the Character Verification Certificate issued by the office of the Deputy Commissioner of Police Gohana, Sonipat wherein there is a disclosure made of the subject FIR and the acquittal order dated 10.07.2023.

8. We notice from the documents that the Character Verification Certificate issued by the office of the Deputy Commissioner of Police is dated 28.10.2023 and the document verification form is filled up on 07.11.2023.

9. It is apparent that as the petitioner was required to submit a Character Verification Certificate issued by the Police Authorities and the Certificate contained information about the FIR, petitioner was constrained to fill up this said information in the Document Verification Form. The disclosure does not appear to be voluntary but necessitated on account of the fact that the said information was



contained in the Character Verification Certificate issued by the office of the Deputy Commissioner of Police, which had to be submitted.

10. The online application form lists out the '*reasons for rejection during document verification*' and one of the reasons mentioned is '*false declaration in the application form*'.

11. Clearly, petitioner has not made true and correct declaration in the online application form, when the petitioner answered the question as to whether there were any proceedings pending before any criminal court. The Criminal case was pending and the Petitioner replied in the negative. Petitioner was subsequently acquitted. We may note that as per the Petitioner there was a settlement with the complainant.

12. Since the petitioner had clearly made a false declaration in the online application form, the candidature of the petitioner was liable to be cancelled.

13. Reference may be had to the judgment of the Supreme Court in *State of Madhya Pradesh vs. Bhupender Yadav, 2023 SCC online SC 1181*, wherein there was no disclosure in the online application form but subsequently a disclosure made. There was also an acquittal from the criminal case. The Supreme Court upheld the decision of the authorities in rejecting the candidature for appointment to the post of constable and held that the decision was not vitiated on account of any mala fides.



14. Reliance is placed by learned counsel the petitioner on the decision of the Supreme Court in *Umesh Chandra Yadav vs Inspector General & Chief Security Commissioner (2022) 14 SCC 244* to contend that if disclosure is made in the verification form, the employer may take notice of the special circumstances if any while giving such information and further if a disclosure is made in the character verification form regarding pendency of a criminal case of trivial nature, the employer in its discretion may appoint a candidature.

15. Reliance placed on the said Judgment in the case of *Umesh Chandar Yadav (supra)* is misplaced as the Petitioner therein at the time of commission of the offence was a juvenile.

16. Further, as noticed herein above, petitioner did not make any voluntary disclosure but was constrained to make the disclosure in the character verification form because he had to append a Character Verification Certificate from the office of the Deputy Commissioner of Police, which contained the information. Thus, petitioner could no longer conceal the said information any further and was obliged to make the disclosure

17. In *Umesh Chandra Yadav (supra)* the Supreme Court has held that the employer may take notice of special circumstances and in its discretion appoint such a candidate. In the case of the petitioner



herein, the employer has decided not to exercise such discretion and has decided not to employ the petitioner.

18. The decision of the respondents in rejecting the candidature of the petitioner is in accordance with the stipulation contained in the application form and reasonable. We also find that the decision taken by the employer is not vitiated on account of any malafides.

19. In view of the above, we find no merit in the petition. Consequently, the petition is dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

NOVEMBER 30, 2023/sa