



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 19.12.2023

Judgment delivered on: 23.02.2024

+ W.P.(C) 9733/2023

CHIRANJIVI PRADHAN

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the petitioner: Mr. K.K. Sharma, Mr. Harshit Aggarwal,
Mr. Mohit Sharma, Mr. M. Sudir and Ms.
Sanya, Advocates

For the Respondent: Mr. Tanveer Ahmed Ansari, SPC with Mr.
Hilal Haider, GP

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

MANOJ JAIN, J

1. Petitioner, who has been dismissed from his service, seeks his reinstatement with all consequential benefits.
2. Petitioner joined Central Reserve Police Force (CRPF) on 07.11.2014. After his enlistment in CRPF, he was required to fill up Verification Form revealing about his criminal antecedents, if any.



3. Petitioner was, admittedly, involved in one criminal case i.e. FIR No.99/2007 registered at P.S. Jashpur, Chhattisgarh for commission of offence under Section 376 IPC.

4. One of the columns in *Verification Roll Form* required any such person to give information about his involvement in any criminal case. While responding to such question, petitioner held back information about his aforesaid involvement and left the relevant column blank and unfilled. Eventually when the verification was received from the concerned Police Station, the factum about his aforesaid involvement stood revealed.

5. Based on the aforesaid revelation, inquiry was initiated against him. The charge regarding suppression of the aforesaid material fact was held proved, which eventually resulted in his dismissal from service on 20.10.2022. He filed an appeal before the competent authority but the order of dismissal was upheld.

6. This is how the petitioner is before us.

7. Petitioner has challenged the aforesaid dismissal, *inter alia*, on following grounds:-

(i) When the form was filled up by him in the year 2014, the relevant column was left blank as he was not aware about any action taken by the police after the registration of the aforesaid FIR;



(ii) He was juvenile at the relevant point of time and, therefore, it was not obligatory for him to have revealed the aforesaid information in light of the objective and scheme of Juvenile Justice (Care And Protection of Children) Act, 2000 (hereinafter referred to as 'the JJ Act 2000') and various judicial pronouncements;

(iii) Such criminal case was a false case in which he was ultimately acquitted;

(iv) He had no knowledge about the filing of any chargesheet as, admittedly, though the FIR was registered in the year 2007, the chargesheet was filed before the concerned *Juvenile Justice Board* after a gap of 15 years.

8. Petitioner has, in particular, relied upon *Union of India & Ors. vs. Ramesh Bishnoi*: (2019) 19 SCC 710.

9. Respondents have claimed that utmost truthfulness was required from any person joining a disciplined Force and suppression of aforesaid material fact was not only deliberate but also actuated with apparent malafide intention and, therefore, the petitioner was rightfully dismissed from service.

10. There is no dispute about the fact that the petitioner was named as an accused in the aforesaid FIR which was registered in the year 2007. There is also no dispute that the petitioner was *juvenile* at the time of the commission of alleged offence. The incident of the alleged rape took place on 15.05.2007 and admittedly, the date of birth of the



petitioner is 14.02.1992, which means that at the time of commission of offence his age was 15 years 3 months 1 day.

11. Undoubtedly, the relevant form had been filled up by the petitioner. It is also admitted position that the form contained warning that if any false answer was given to said question then any such person would be liable to be punished as per CRPF Act, 1949. It was also mentioned that any suppression of factual information, which may come to the notice at any time during the service of the person, his services would be liable to be terminated.

12. There is no denying the fact that the petitioner did not answer the relevant question asking about his criminal antecedents.

13. However, if we see the scheme and objective of JJ Act 2000, then it becomes abundantly clear that such act of suppression cannot be held against him. We may emphasize here that at the relevant time i.e. at the time of commission of alleged offence, it was Act of 2000 which was in vogue which defined "juvenile in conflict with law" as the one who was alleged to have committed an offence and had not completed eighteenth year of age as on the date of commission of such offence. Section 19(1) JJ Act 2000 specifically stipulates that juvenile shall not suffer any disqualification attached to the conviction of an offence under such law. Further Section 19(2) contemplates that the Juvenile Justice Board must pass an order directing all the relevant records of such conviction to be removed after expiry of the period of appeal or a reasonable period as prescribed under the rules as the case



may be. Section 21 of JJ Act 2000 prohibits publication of the name of the "juvenile in conflict with law" with the object to protect a juvenile from adverse consequences on account of his conviction for an offence committed as a juvenile. JJ Act 2000, being a beneficial legislation, its principles are to be applied only for the advancement of its objective. As per the requirement of law, even a conviction in an offence will not be treated as a disqualification for a juvenile. The records of the case pertaining to his criminal involvement are to be obliterated after the specified period. Thus, so far as juveniles are concerned their criminal records cannot stand in their way as the precise aim is to reintegrate such juvenile back in the society as a normal person, without any stigma.

14. We may, in this regard, also refer to *Union of India & Ors. vs. Ramesh* (supra). In that case, the petitioner was appointed to the post of sub-Inspector in Central Industrial Security Force and his appointment was canceled on the ground that he was involved in a criminal case. Undoubtedly, in the aforesaid case, the petitioner had mentioned about the fact that an FIR has been registered against him and he also mentioned that in such case, he had already been acquitted. However, the respondents therein found him unsuitable for the reason that a criminal case was alleged against him in the past and, therefore, his appointment was cancelled. The Supreme Court noted that at the time of the alleged commission of offence, the petitioner therein was minor. It also noted that even if the allegations were found to be true, the petitioner could not have been deprived of getting



a job as the offence had been committed by him when he was juvenile. It was observed that thrust of the legislation, i.e., the J.J. Act was to see that even if a juvenile is convicted, the same should be obliterated so that there is no stigma with regard to any crime committed by any such person as juvenile. The relevant para 8 and 9 of *Union of India & Ors. vs. Ramesh* (supra) reads as under:-

“8. From the facts, it is clear that at the time when the charges were framed the respondent, on 30-6-2009, the respondent was well under the age of 18 years as his date of birth is 5-9-1991. Firstly, it was not disputed that the charges were never proved against the respondent as the girl and her parents did not depose against the respondent, resulting in his acquittal on 24-11-2011. Even if the allegations were found to be true, then too, the respondent could not have been deprived of getting a job on the basis of such charges as the same had been committed while the respondent was juvenile. The thrust of the legislation i.e. the Juvenile Justice (Care and Protection of Children) Act, 2000 as well as the Juvenile Justice (Care and Protection of Children) Act, 2015 is that even if a juvenile is convicted, the same should be obliterated, so that there is no stigma with regard to any crime committed by such person as a juvenile. This is with the Clear object to reintegrate such juvenile back in the society as a normal person, without any stigma. Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down guidelines for the Central Government, State Governments, the Board and other agencies while implementing the provisions of the said Act. In clause (xiv) of Section 3, it is clearly provided as follows:



"3. (xiv) Principle of fresh start: All past records of any child under the juvenile justice system should be erased except in special circumstances." . .

9. In the present case, it is an admitted fact that the respondent was a minor when the charges had been framed against him of the offences under Sections 354, 447 and 509 IPC. It is also not disputed that he was acquitted of the charges. However, even if he had been convicted, the same could not have been held against him for getting a job, as admittedly, he was a minor when the alleged offences were committed and the charges had been framed against him. Section 3(xiv) provides for the same and the exception of special circumstances does not apply to the facts of the present case."

15. Undoubtedly, in the present case there is non-revealing of the factum of a pending criminal case that but the legal position seems quite clear and settled. A juvenile is not required to divulge about his previous antecedents. We may also, right here, make reference to *Akhilesh Kumar vs. Union of India & Ors.*: 2018 SCC online Del 7341. In said case, petitioner had applied for the post of Constable in the Railway Protection Force. As per the selection process, he filled up the requisite form mentioning therein that no criminal case was registered against him. However, when the above form was sent for police verification, it was found that he was involved in a criminal case. It was in the aforesaid background that his appointment was cancelled and he was discharged. Such order was challenged by him and a Coordinate Bench of this Court noted that the petitioner therein was juvenile at the time of the commission of offence and, therefore,



he could not be made to suffer any disqualification in view of the provisions of the J.J. Act. The relevant para of the judgment reads as under:-

“14. The object of Section 19 of the J.J. Act is to give an opportunity to the juvenile to lead a life with no stigma and to wipe out the circumstances of his inglorious past. It is for this reason that Section 19 provides that a juvenile shall not suffer any disqualification.

15. The issue involved in this petition is no longer res integra in view of a recent decision of this Court in Writ Petition (C) No.6062/2017 titled as Mukesh Yadav vs. Union of India dated 14.12.2017 (authored by one of us, Hima Kohli, J.). In the said writ petition, a criminal case No.65/2000 under Sections 147/148/149/323/324/504/307 IPC was registered in District Gopal Ganj, Bihar against the petitioner and ten other accused persons. He was also selected to the post of a Constable in the RPSF. While submitting the attestation form, the petitioner did not mention about the pendency of the criminal case which came to the notice of the respondent only when the attestation form was sent for verification. The petitioner, who was undergoing training by then, was issued a discharge order dated 29.07.2015 stating that since he had suppressed the fact of the pendency of the criminal case against him while filling the attestation form, he was being discharged as per the conditions mentioned in para 3 of the attestation form.

16. In the above noted writ petition also, the contention raised on behalf of the respondents was that it was the duty of the petitioner to have furnished the relevant details of the criminal case pending against him at the time of filling up the verification form. But he failed to do so and the pendency of the said case came to the notice of the respondents only upon undertaking necessary police



verification regarding his antecedents. The above writ petition was allowed for the following reasons:-

"7. We have heard learned counsel for the parties and examined the documents on the record. The facts of the case are undisputed inasmuch as there is no quarrel with regard to the plea of the learned counsel for the petitioner that on the date of the alleged offence i.e. on 9th October, 2000, the petitioner was twelve years five months old. It is also not disputed that on the date the petitioner had applied for appointment to the post of a Constable in the year 2011, a case was pending against him before the Juvenile Justice Board and same was the position on 25th May, 2014, when the petitioner was called upon by the respondents to submit an attestation form. The said criminal case attained finality by virtue of the judgment dated 3rd August, 2015, passed by the Juvenile Justice Board, District Gopalganj. However, less than a week prior thereto, the respondents passed the order of discharge against the petitioner, on the ground of withholding material information.

8. Having regard to the legal position, which shows that the petitioner was undoubtedly, a juvenile on the date when the alleged offence had been committed and, therefore, he was required to be dealt with under the Juvenile Justice (Care & Protection of Children) Act, 2000 (hereinafter referred to as the "Act") which declares that all criminal charges against individuals, who are described as "juvenile in conflict with law" must be initiated and decided by the authorities constituted under the Act by the Juvenile Justice Board. Even if a conviction is recorded by the Juvenile Justice Board, Section 19(1) of the Act, stipulates that the juvenile shall not suffer any disqualification attached to the conviction of an offence under such



law. Further, as noted hereinabove, Section 19(2) of the Act contemplates that the Board must pass an order directing that all the relevant records relating to such a conviction, be removed after the expiry of the period of appeal or within a reasonable period as prescribed under the rules, as the case may be.

9. In the present case, the record reveals that the Juvenile Justice Board had acquitted the petitioner for the offence in question and, therefore, this was even otherwise, not a case of conviction for any offence. It is also noteworthy that Section 21 of the Act prohibits publication of the name of the "juvenile in conflict with law", the underlying object of the said provision being to protect a juvenile from any adverse consequences on account of the conviction for an offence, committed as a juvenile.

10. Given the aforesaid position, the contention of the respondents is that petitioner was under an obligation to have disclosed the information relating to the pendency of the criminal case against him in respect of an incident that had taken place when he was all of twelve years, would run contrary to the very spirit of the Act. Keeping in mind the fact that the object of the Act is to ensure that no stigma is attached to a juvenile in conflict with law, in our view, once the juvenile has been extended a protective umbrella under the said enactment, there was no good reason for the respondents to have insisted that the petitioner ought to have disclosed the information relating to the allegations against him pertaining to an offence that was committed during his childhood where he was tried by the Juvenile Justice Board, and subsequently acquitted. We may add here that even when police verification in respect of the petitioner



was being conducted on the directions of the respondents, the concerned police officials ought to have refrained from revealing the information pertaining to the petitioner in the case in question, since he was a juvenile at that point in time. This was in fact a gross breach of confidentiality contemplated under the Act.

11. For the aforesaid reasons, the impugned order dated 11th May, 2017, is unsustainable and is quashed and set aside. The respondents are directed to reinstate the petitioner within a period of twelve weeks from today along with all the consequential benefits, excluding back wages." (Emphasis added)

17. Thus, in view of the above facts and the legal position, the factum of prosecution of the petitioner in case FIR No.752/2010 under Sections 323/325/506/504 IPC could not have been taken into consideration by the respondent/RPSF on his omission to mention the same in the attestation form on account of his status as a juvenile in conflict with law on the date of commission of the alleged offence. We cannot ignore or overlook the beneficial provisions and the socially progressive statute of the Juvenile Justice Act, 2000."

16. Thus, applying the aforesaid legal position and keeping in mind the provisions of the J.J. Act, it becomes quite obvious that the petitioner was under no legal obligation to have revealed the fact about his previous involvement in a criminal case, for an offence which he allegedly committed when he was a minor.

17. There is also one surprising aspect. Petitioner joined CRPF in the year 2014 and it is not elucidated by the respondent as to why the verification was got done after a huge delay of around 8 years.



Needless to say, in such cases, any employer should get the verification about past antecedents, if any as expeditiously as possible.

18. Be that as it may, the fact remains that the petitioner has been dismissed solely on the ground that he suppressed the material fact about his involvement in a criminal case. However, since the petitioner was under no obligation to reveal about his such previous involvement, being minor at the relevant time, there was no reason or occasion for the respondents to have dismissed him from service.

19. Thus, we have no hesitation in allowing the present writ petition. Respondents are accordingly directed to forthwith reinstate the petitioner with all consequential benefits.

20. Ordered accordingly.

MANOJ JAIN, J

SANJEEV SACHDEVA, J

FEBRUARY 23, 2024/st