



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

% Judgment reserved on: 19.12.2023

Judgment delivered on: 23.02.2024

+ W.P.(C) 14682/2023

MD PARVEJ ALAM

..... 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. Pradeep Kumar Jha, SPC with
Ms. Perna, Advocate with Mr. R.N. Parikh,
Pairvi Officer, UOI

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

MANOJ JAIN, J

1. Petitioner seeks setting aside of Memorandum dated 09.08.2023 whereby a departmental inquiry has been initiated against him.

2. Petitioner joined as Constable/GD in Central Reserve Police Force (CRPF) on 01.12.2006. He claims to have rendered unblemished service in CRPF for almost about 17 years with utmost



dedication, sincerity and integrity and was even honored with several distinguished awards and commendations.

3. According to petitioner, he was implicated in a false case and FIR No.170/2000 was registered against him by PS Chhapra, District Muzzafar Nagar, UP on 14.07.2000 for commission of offences under Sections 147/148/149/307 IPC. However, with the intervention of common relatives and friends and respectable persons of his village, both the parties agreed to settle the disputes.

4. According to him, since his date of birth is 06.05.1983, at the time of the alleged incident and at the time of registration of FIR, he was a juvenile.

5. Fact, however, remains that when the petitioner was enrolled and enlisted in CRPF, he was required to fill up Form 25 which warranted him to disclose about his antecedents and involvement in any criminal case. He claims that when he filled up such form, almost 6 years had elapsed from the date of the registration of the FIR and, therefore, with respect to the question whether he was involved in any criminal case, he did not disclose anything against the relevant column, i.e., clauses 12(a) and 12(b) of Form 25. According to him, the antecedents were also verified by SSP, Muzzafar Nagar, UP and the earlier report sent by them also indicated that there was no adverse record against the petitioner.



6. Petitioner claims that the omission regarding non-mentioning of his involvement in the aforesaid criminal case was a bonafide one. He also contends that he, being minor, was not even aware about the status of aforesaid criminal case and he, all along, remained under impression that nothing further was required to be done in the aforesaid criminal case.

7. His involvement in said criminal case came to fore only when a letter dated 06.12.2022 was received from one Sh. Sarfaraz, who revealed that the petitioner was involved in the aforesaid criminal case and that he had suppressed the aforesaid fact and requested appropriate action against him.

8. Based on the aforesaid information, fresh report was sought from the concerned police authorities of Muzzafar Nagar, which confirmed that the case FIR No.170/2000 under Section 147/148/149/307 IPC was registered against the petitioner and the matter was pending adjudication before the competent Court and the next date was 26.07.2023.

9. It is in the aforesaid background that the impugned Memorandum dated 09.08.2023 has been issued against the petitioner directing enquiry for suppressing the factum of registration of a criminal case against him.

10. According to respondents, any such person joining a disciplined force is required to disclose about his criminal antecedents and the



suppression of the aforesaid material fact is evidently deliberate and, therefore, the respondents were justified in issuing the aforesaid memorandum.

11. There is no dispute about the fact that the petitioner is named as an accused in the aforesaid FIR, which was registered in the year 2000. There is also no dispute that the petitioner was a juvenile at the time of the commission of the alleged offence. Even as per the record maintained by the respondents, the date of birth of petitioner is 06.05.1983. Thus, at the time of registration of FIR, his age was 17 years 2 months 8 days. It is also not in dispute that when the relevant form had been filled up by the petitioner, he did not give any answer with respect to the Clause 12(a) and 12(b). Clause 12(a) required any such applicant to disclose whether he had ever been arrested, prosecuted, kept under detention or bound down/confined or convicted by any Court of law and whether any case was pending against him in any Court of law. Said form also contained a warning that furnishing of false information or suppression of any factual information would be a disqualification which would render the candidate unfit for employment under the Government.

12. As noted, the petitioner had joined CRPF way back in 2006 and when the verification was earlier sought from the concerned police authorities, no adverse report was received. The entire controversy has arisen on receipt of the aforesaid communication sent by said Sh. Sarfaraz in the year 2022.



13. Admittedly, the petitioner was juvenile at the relevant time and, therefore, it was not obligatory for him to have even revealed any such information about his criminal antecedents 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') which was in vogue at the relevant time and also in light of various judicial pronouncements.

14. JJ Act 2000 defines "juvenile in conflict with law" as the one who is alleged to have committed an offence and has 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.

15. We may, in this regard, also refer to *Union of India & Ors. vs. Ramesh Bishnoi*: (2019) 19 SCC 710. 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.”

16. Undoubtedly, in the present case there is non-revealing of the factum of a pending criminal case 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."

17. Thus, applying the aforesaid legal position and keeping in mind the provisions of the JJ Act, 2000, 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.

18. Thus, we have no hesitation in allowing the present writ petition. As a consequence thereof, the impugned Memorandum dated 09.08.2023 initiating inquiry against the petitioner is hereby set aside.

19. Ordered accordingly.

MANOJ JAIN, J

SANJEEV SACHDEVA, J

FEBRUARY 23, 2024
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