SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Krishnarao ` Vs. the State of Madhya Pradesh

Krishnarao ` Vs. the State of Madhya Pradesh

SooperKanoon Citation : sooperkanoon.com/1040430

Court : Madhya Pradesh

Decided On : Mar-19-2013

Appellant : Krishnarao `

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Sanjay Singh

Judgement :

Krishnarao Vs. State of M.P. & Others Writ Appeal No.212

19. 3.2013: Shri Sanjay Singh, learned counsel for the appellant. Shri Prashant Singh, learned Additional Advocate General for respondents, on advance notice. Challenge in this writ appeal under Section 2(1) of the Madhya Pradesh Uchhya Nyayalaya (Khand Nyay Peeth Ko Appeal) Adhiniyam, 2005 is made to an order dated 5.2.2013 passed by learned Single Judge of this Court in Writ Petition No.1273/2013.

2. Appellant was working as Senior Agricultural Development Officer in the department of Farmer Welfare and Agricultural Development. In the year 2007, he was posted in District Chhindwara, when he was proceeded against and prosecuted for an offence punishable under Section 295 of IPC in Criminal Case No.894/2004. He was tried and convicted for the said offence vide judgment dated 25.4.2007, he was sentenced to undergo 1 year imprisonment and fine of Rs.1,000/-. As his conviction was a bar for continuing him in employment, his

conviction resulted in dismissal from service 2 in view of the provisions and Rule 19 of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1996. Challenging his conviction in criminal case, a criminal appeal was filed and finally the matter went up in revision after the conviction was up-held in the appeal. However, in revision the punishment of imprisonment was modified to imposition of fine of Rs.5,000/- with imprisonment till raising of the court and by giving benefit of probation of good conduct the appellant was let-off by executing a bond of Rs.5,000/- under the Probation of Offenders Act. Appellant, therefore, sought for his reinstatement and when the same was rejected, the writ petition was filed.

3. Learned Single Judge found that petitioner's services have been dispensed with due to his conviction in criminal case and as the conviction is a bar to continue in government employment learned Single Judge held that mere release of petitioner on probation under the Probation of Offenders Act, 1958 does not wipe-out the disqualification attached to his conviction and after considering the law laid down by the Supreme Court in the case of Union of India Vs. Bakshi Ram, 3 AIR 199.SC 98.and Karam Singh Vs. State of Punjab and Another, AIR 199.SC 3159.dismissed the writ petition.

4. Having heard learned counsel for the parties and on perusal of the records it is clear that appellant has been convicted in the criminal case and he is only released on probation in view of the provisions of Section 4 of the Probation of Offenders Act. In the judgment relied upon by learned Single Judge, i.e. in the case of Bakshi Ram (supra) and Karam Singh (supra) the principle is that mere release on probation does not wipe out the disqualification attached to conviction. The conviction is a bar to continue or disqualification to continue in government service. The judgment rendered in the case of Bakshi Ram (supra) and Karam Singh (supra) and various other judgment and the question is again considered by the Supreme Court in the case of Sushil Kumar Singhal Vs. Regional Manager, Punjab National Bank, (2010) 8 SCC 57.and it has been held by the Supreme Court in the aforesaid case that release of a person under the Probation of Offenders Act, 1958 and the stipulation contained in Section 12 thereof only removes the 4 disqualification provided in various statutes like the Representation of Peoples Act etc.. but it does not wipe out the disqualification with regard to

continuing in government service. It has been held in aforesaid case that inspite of his release on probation an employee can still be proceeded against by initiating departmental proceedings or steps can be taken against him for dismissal or removal from service depending upon the gravity of offence. It has been held that an employee cannot claim as a right to continue in service only on the ground that he has been granted the benefit of probation infact in this judgment the law laid down and applied by learned single Judge has been upheld.

5. Keeping in view the aforesaid, We see no error in the matter warranting interference, the appeal is, therefore, dismissed. (S.A. BOBDE) (RAJENDRA MENON) Chief Justice Judge ss/-

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com