

Prem Kumar Vs. Inspector General of Police

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Court : Rajasthan

Decided On : Jan-23-2001

Reported in : 2001(2)WLC280; 2001(2)WLN637

Judge : B.J. Shethna & H.R. Panwar, JJ.

Acts : Rajasthan Police Subordinate Service Rules, 1989 - Rules 13 and 15;
[Indian Penal Code \(IPC\), 1860](#) - Sections 147, 323, 332 and 353

Appeal No. : D.B. Civil Special Appeal No. 40 of 2001

Appellant : Prem Kumar

Respondent : Inspector General of Police

Advocate for Pet/Ap. : R.S. Saluja

Judgement :

ORDER

Shethna, J.

(1). By impugned common order dated 31.3.1998, Superintendent of Police, Sri Ganganagar removed the names of in all 9 constables from the select list on different grounds. The appellant-petitioner was one of them. The ground for removal of his name from the select list was that against him criminal case No. 2 was filed before Dhamrwali Police Station for the offences u/S. 147, 332, 353 and

323 IPC and that there was an over- writing in column No. 17 of the application form by the applicant appellant.

(2). Being aggrieved by that order of removing his name from the select list, the appellant filed writ petition No. 1737/98 before this Court which was dismissed by the learned Single Judge by his judgment and order dated 18.10.2000. Hence, this special appeal.

(3). Learned counsel Shri R.S. Saluja for the appellant submitted that the learned Single Judge committed grave error in dismissing his writ petition because in the instant case the ground on which his name was removed from the select list was wholly unsustainable. He submitted that the appellant had clearly mentioned in the application form about the case being filed against him. Not only that, alongwith the application form, he had submitted the photostat copy of the judgment and order of the competent criminal court whereby he was released on probation. He, therefore, submitted that it cannot be said that the appellant had deliberately suppressed the material fact or misled the authority while filling up the application form. Therefore his case cannot be said to be covered by the Full Bench decision of this Court in Dharampal's case.

(4). Column No. 17 of the application form is very significant. A candidate is required to mention the fact about any criminal case registered against him and if case was registered against him then he has to state as to whether he was convicted or not. From the photostat copy of the judgment and order passed by the competent criminal court, it is clear that the trial court clearly found the appellant-petitioner guilty for the offences punishable under Sec. 147, 353 and 323 IPC along with other accused persons. However, because of the compromise filed between he complainant side and the accused, the trial court instead of passing an order of sentence against the accused persons, simply allowed them to go with an order of admonition and fine. In our considered opinion, the appellant was required to state all these facts clearly in column No. 17 of the application form. The wrong impression tried to be created in our mind that he was acquitted by the competent criminal court but, that is not the fact. From the judgment of he trial court it is clear that the appellant- accused was convicted along with others but

instead of passing an order of substantive sentence he was allowed to go with admonition and fine. Be that as it may. We are concerned with the decision taken by the Superintendent of Police, Sri Ganganagar deleting his name from the select list on the ground that he has done over-writing in column No. 17 of the application form, and that criminal case was registered against him. This type of decision cannot be challenged by the appellant-petitioner in writ jurisdiction on any other ground except on the ground of malafide. That is not the case of the appellant. This court cannot sit in appeal over such decision taken by the authority of deleting his name on some material in its writ jurisdiction.

(5). In our considered opinion, the present case also more or less covered by the Full Bench judgment of this court in case of Dharampal Singh vs. State of Raj. (1).

(6). From the judgment of the trial court which is produced on record by Mr. Saluja, it is clear that for assaulting the public servant while on duty, the case was registered against the appellant-accuserf along with four others. 'Violence' which is defined under the circular No. 56(1) PK/ConsL/95/1687 dated 29.4.1995 which has also been referred to by the learned Single Judge in his order. In case of Delhi Administration through its Chief Secretary and others vs. Sushil Kumar (2), where the appointment on the post of constable was refused, the Hon'ble Supreme Court observed as under:-

'It is seen that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was found physically fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offence, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take

care of the consequences. The consideration relevant to the case is of the antecedents of the candidate. Appointing authority, therefore, has rightly focussed this aspect and found it not desirable to appoint him on the service,'

(7). This judgment of the Hon'ble Supreme Court is also relied upon by the learned Single Judge for dismissing the writ petition.

(8). In view of the above discussion, we do not see any reason to interfere with the order passed by the learned Single Judge dismissing the writ petition filed by the appellant-petitioner. Accordingly the special appeal fails and is hereby dismissed.

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