

Shesh Kumar Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Dec-10-1997

Reported in : 1998(1)WLC740; 1997(2)WLN691

Judge : N.L. Tibrewal, J.

Appeal No. : S.B. Civil Writ Petition No. 2490 of 1997

Appellant : Shesh Kumar

Respondent : State of Rajasthan and ors.

Disposition : Petition dismissed

Judgement :

N.L. Tibrewal, J.

1. A short but important question involved in this petition is : Whether denial of appointment as a constable in State Police Service to the petitioner on the ground of suppression of material fact about pendency of a criminal case against him involving moral turpitude can be said to be arbitrary or unreasonable calling for issuance of a mandamus by this Court under Article 226 of the Constitution ?

2. Undisputed factual position is that pursuant to an advertisement of 69 vacancies of constable for the District of Dholpur, the petitioner applied for the same. In the written test conducted on August 18, 1996, he was declared successful. He was

also found physically fit and provisionally selected. However, on police verification of his character and antecedents it was found that a criminal case No. 228/93 under Section 394 IPC was pending against him in which he was facing trial before a competent Court but this fact was deliberately suppressed by the petitioner in Column No. 17 of the Application Form submitted by him. Column No. 17 of the Application form required the petitioner to state whether he is/was involved in a criminal case. Whether he was arrested in any case and whether he was convicted in any case. While answering this column, the petitioner denied about his involvement in the criminal case. He also made a declaration at the bottom of the Application form that all informations given by him were true to his knowledge and if any information was found incorrect administrative and legal action might be taken against him. There is no dispute that this Application Form, a photo stat copy of which has been placed on record as Annexure R1, was filled in by the petitioner himself and he signed the same and also gave the above declaration. The petitioner had also filled in a Verification Roll, a photo copy Annexure R2 has been placed on record. In Column No. 8 of the said Verification Roll also he was required to state as to whether he was an accused in any criminal case or awarded sentence of imprisonment. In that Column he denied to have been involved in any criminal case. Thus, undisputed facts are that the petitioner was guilty of suppressio-veri and suggestio falsi, inasmuch as he suppressed the material fact of his involvement as an accused in a criminal case under Section 394 IPC and he made a false suggestion that he had never been an accused in any criminal case.

3. In the light of the above factual aspect whether the action of the respondents in denying appointment of a constable to the petitioner can be said to be arbitrary or unreasonable ?

4. Police force in which the petitioner was seeking appointment as a constable, is a disciplined force. Verification of character and antecedents is one of the important criteria to test whether the selected candidate is suitable to the post. Column No. 17 of the Application Form and Column No. 8 of the Verification Roll required a candidate to give complete information about any criminal case in which he was involved as an accused. A candidate was required to give correct

information as it was necessary for verification of his. antecedents. A deliberate suppression of material information which required to be disclosed in the Application Form and Verification Roll, or submitting a false statement would amount serious misconduct which would dis-entitle a candidate to get appointment. The petitioner being guilty of suppression of material fact and also of misrepresenting in the Application Form and Verification Roll that he was not involved in any criminal case, was rightly denied appointment by the respondents. Subsequent acquittal in the criminal case does not improve his position. The consideration relevant to the case is of the antecedents of the candidate for which he was required to state material facts about his involvement as an accused in a criminal case. The appointing authority, therefore, has rightly found him undesirable for appointment in the service.

5. In Delhi Administration through its Chief Secretary and Ors. v. Sushil Kumar 1997 U.J. (S.C.) 159, the Supreme Court had an occasion to examine more or less a similar question. In that case the petitioner was successful in written test and was also found physically fit. After interview he was selected provisionally subject to verification of character and antecedents by the local police. On verification it was found that his antecedents were such that his appointment to the post of constable was not desirable. Accordingly his name was rejected. The petitioner in that case challenged the cancellation of his provisional selection by filing an Original Application before the Central Administrative Tribunal. The Application was allowed by the Tribunal that since he had been discharged and/or acquitted of the offence punishable under Section 304 I.P.C., under Section 324 read with Section 34 I.P.C. and under Section 324 I.P.C. he cannot be denied the right of appointment to the post under the State. Setting aside the order of the Central Administrative Tribunal, the Supreme Court held as under:

The question is: whether the view taken by the Tribunal is correct in law It is seen that verification of the character and antecedents is one of the important criteria for test whether the selected candidate is suitable to a post under the State. Though he was physically found 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 offences, 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 particular way, the law will take care of the consequences. The consideration relevant to the case is of the antecedents of the candidate.

6. In view of the above discussion the case of the petitioner does not merit consideration under Article 226 of the Constitution.

7. Consequently the petition is dismissed but with no order as to costs.

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