

(2019) 12 DEL CK 0035

In the Delhi High Court

Case No : Civil Writ Petition No. 10240 Of 2017

Balram Meena

APPELLANT

Vs

Railway Protection Force And Anr

RESPONDENT

Date of Decision : 06-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 147, 149, 323, 341

Citation : (2019) 12 DEL CK 0035

Hon'ble Judges : Dr. S. Muralidhar, J; Talwant Singh, J

Bench : Division Bench

Advocate : N.S. Dalal, T. Banerjee, Manu Kharra, Jitendra K. Singh, Amit Kumar, Saurav Sharma

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

1. The Petitioner challenges an order dated 22nd August, 2017 passed by the Chief Security Commissioner, Railway Protection Force ("RPF") terminating his services as Constable.

2. This is the third round of litigation.

3. Pursuant to an advertisement issued in 2011 the Petitioner applied for the post of Constable. He was duly called for in the selection and was appointed as Constable by a letter dated 1st October, 2014. By an order dated 15th June, 2015 his selection stood cancelled on the ground that he had suppressed information concerning his involvement in the criminal case (Case No.162 of 2004) under Sections 147/323/341/149 IPC at Police Station Rainni, District Alwar, Rajasthan and in respect of which a charge-sheet had been filed in the Court of the Additional Chief Judicial Magistrate ("ACJM") Rajgarh on 21st June, 2004.

4. In terms of the judgment dated 24th January, 2012, the ACJM Rajgarh

acquitted the Petitioner and others giving them the benefit of doubt under Sections 147 and 149 IPC. As regards the other offences under Sections 323 and 341 IPC, he acquitted the Petitioner and others on account of "compromise". After it was noticed that he had suppressed the above facts and thereby contravened the Railway Board's letter dated 16th November, 2005 and the employment notification dated 23rd February, 2011, the Petitioner was discharged from training by the discharge order dated 15th June, 2015.

5. Initially, the Petitioner challenged the above order dated 15th June, 2015 by filing W.P.(C) 6648 of 2015 in this Court. By an order dated 10th March, 2016, while disposing of the writ petition, this Court directed the RPF to issue a Show Cause Notice ("SCN") to the Petitioner.

6. Pursuant thereto, an SCN was issued to the Petitioner on 16th April, 2016 to which he replied on 18th May, 2016. Having examined the said reply, the Competent Authority ("CA") found the earlier discharge order to be valid and a memorandum dated 17th June, 2016 was issued terminating the services of the Petitioner on the ground that he had concealed and suppressed his involvement in the criminal case.

7. This order was again challenged by the writ petition being W.P. (C) 7694 of 2016. This was disposed of on 15th May, 2017 by this Court, setting aside the discharge order dated 17th June, 2016 and remanding it to the Respondents for a fresh decision within a period of 12 weeks. The Respondents were required to examine the Petitioner's case in light of the judgment in Avtar Singh v. Union of India (2016) 8 SCC 471. Pursuant thereto, a fresh decision has been taken on 22nd August, 2017, reiterating the earlier decision after examining the case of the Petitioner in light of the aforementioned decision in Avtar Singh (supra). That decision has been challenged in the present petition.

8. The allegation against the Petitioner and others in the aforementioned Case No.162 of 2004 was that they had stopped Rattan Singh and his daughter Reena Kumari, while they were returning after her examination, and inappropriately behaved with Reena Kumari.

9. What is significant is that the Petitioner has been acquitted of the offences under Sections 147 and 149 IPC by being granted the benefit of doubt. This was a case involving moral turpitude and would stand covered by paras 38.4.3 and 38.7 of the decision in Avtar Singh (supra), which read as under:

"38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

.....

38.7. In a case of deliberate suppression of fact with respect to multiple pending

cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper."

10. A perusal of the impugned order of the Respondent No. 2 reveals that the Petitioner's case has been examined in light of the above observations of the Supreme Court in Avtar Singh. It is seen that subsequent to the order of this Court dated 15th May, 2017, on 17th August, 2017 the Petitioner was even provided a personal hearing before the Chief Security Commissioner in which he did not furnish a clear reply to the question of why he had suppressed information regarding his involvement in a criminal case. Aside from having accounted for the suppression by the Petitioner of the above material fact and his refusal to explain such concealment, the impugned order has also taken into consideration the nature of the charges in the criminal case as well as the fact of non-disclosure of his previous employment with the Sashastra Seema Bal (SSB) in the attestation form.

11. The Court is satisfied that the impugned order is predicated on all relevant facts and antecedents of the Petitioner. As such, the Court sees no reason to interfere with it.

12. Consequently, there is no merit in this petition and it is dismissed as such.