

(2019) 07 MP CK 0046
In the Madhya Pradesh High Court
Case No : Writ Petition No. 9211 Of 2019

Deviram Yadav

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 02-07-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 07 MP CK 0046

Hon'ble Judges : G.S. Ahluwalia, J

Bench : Single Bench

Advocate : Nirmal Sharma, Sankalp Sharma

Final Decision : Disposed Off

Judgement

This petition under Article 226 of the Constitution of India has been filed seeking the following relief:-

â??i- That, respondent be directed to take a final decision over the review / application for reconsidering case of petitioner in the light of order passed

by this Hon'ble Court in another set of litigation of same petitioner for different post and appointment order of petitioner and same be decided within a

period of two months in the interest of justice.

Any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case may also kindly be granted.â??

It is submitted by the counsel for the petitioner that two separate recruitment process for the post of Constable as well as for the post of Platoon

Commander / Sub-Inspector had taken place in the year 2013 and the petitioner had participated in both the recruitment process. Since the petitioner

has criminal antecedents, therefore, his candidature was rejected for the post of Constable as well as for the post of Platoon Commander. By order

dated 23.03.2015 the candidature of the petitioner for the post of Platoon Commander was rejected on two grounds:-

- (i) Two criminal cases were registered against the petitioner.
- (ii) The petitioner had not disclosed the criminal antecedents in his verification form.

The order dated 23.03.2015 was challenged by the petitioner in W.P. No.7559/2016 and the said petition was allowed and by order dated 23.02.2018, the matter was remanded back for reconsideration of the candidature of the petitioner for the post of Platoon Commander. The candidature was once

again rejected by order dated 30.05.2008. Accordingly, the order dated 30.05.2018 was challenged by the petitioner by filing a W.P. No. 17637/2018,

which was dismissed by a coordinate Bench of this Court by order dated 07.08.2018 by holding that the candidature of the petitioner has been rightly

rejected on the ground that he had suppressed the material fact as well that his acquittal was not honourable.

It is further submitted that against the rejection of his candidature for the post of Constable, the petitioner had filed another writ petition which was

registered as W.P. No.3093/2017 and by order dated 12.09.2018 this Court after considering the effect of judgment passed by the Supreme Court in

the case of Avatar Singh Vs. Union of India and others reported in (2016) 2 SCC 471 had remanded the matter back to the authorities to decide the

claim of the petitioner by passing speaking order. Accordingly, by order dated 13.12.2018 the petitioner has been granted appointment to the post of

Constable. Since the writ petition filed by the petitioner against the rejection of his candidature for the post of Platoon Commander was dismissed,

therefore, the petitioner filed a Writ Appeal No. 220/2019 which was disposed of by order dated 13.02.2019 with the following observations:-

â??Learned Govt. Advocate appearing for the State submits that liberty may be granted subject to remedy available with the department and the

department would be at liberty to take into consideration the finding arrived at by the learned Single Judge in the order dated 7.8.2018 passed in Writ

Petition No.17637/2018 while considering the case of the appellant.

In view whereof, the appellant is permitted to withdraw the appeal with liberty to avail the departmental remedy subject to its availability and in case

such remedy is available the department would be at liberty to take into

consideration the finding arrived at by the learned Single Judge in the order dated 7.8.18 in W.P.No.17637/2018 while considering the case of the appellant.â??

It is submitted that in view of the liberty granted by the Writ Appellate Court, the petitioner has made a representation to the respondents for re-

consideration of his case for recruitment to the post of Platoon Commander, which is still pending and has not been decided so far, therefore, it is

prayed that the respondents be directed to decide that representation as early as possible. Heard the learned counsel for the parties. The submission

which has been made by the counsel for the petitioner lies in a narrow compass. His contention is that since his candidature was rejected for the post

of Platoon Commander as well as for the post of Constable and on the same set of facts, the petitioner has been granted appointment on the post of

Constable and his representation against rejection of his candidature for the post of Platoon Commander is pending before the authorities, therefore,

they may be directed to reconsider their decision as early as possible.

The post of Constable and Platoon Commander are different and the post of Platoon Commander carries more responsibilities than the post of Platoon

Commander. So far as the question of candidature for the post of Platoon Commander is concerned, the same is pending reconsideration before the

concerned authorities.

Accordingly, without commenting any further on the merits of the case, it is directed that the authorities while deciding the representation shall take

into consideration the judgments passed by the Supreme Court in the case of Union of Territory, Chandigarh Administration and others Vs. Pradeep

Kumar and another reported in (2018) 1 SCC 797 and in the case of The State of M.P. And others Vs. Buntty decided by order dated 14.03.2019

passed in Civil Appeal No. 3046/2019 and passed by Division Bench of this Court in the case of State of M.P. and others Vs. Pankaj Shukla passed in

W.A. No. 1761/2018 dated 14.12.2018.

Let the decision be taken within a period of three months from the date of filing the certified copy of this order before the authorities. The petitioner is

directed to file the copy of this order positively within a period of 15 days from today.

With the aforesaid observations and directions, the petition stands disposed of.