

(2002) 10 AHC CK 0005

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 39034 of 1994

Jai Shankar Tripathi

APPELLANT

Vs

Commandant, Railway Protection Force and Others

RESPONDENT

Date of Decision : 11-10-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 302

Citation : (2003) 1 UPLBEC 114

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : S.C. Dwivedi, for the Appellant; A.C. Misra and T. Upadhyay, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard the Counsel for the parties and perused the record.

2. By means of this writ petition, the petitioner has prayed that a writ of mandamus be issued directing the respondents to issue him an appointment letter and has further prayed that the respondents be directed to send him for training on the said post of Constable in Railway Protection Force, New Delhi.

3. The brief facts, as alleged in the writ petition, are that the petitioner was selected in pursuance of the vacancies published in February, 1992 for recruitment of Constables in Railway Protection Force. It is further averred in the writ petition that after having been found fit in the medical examination, he was issued luggage and uniform box but as no training centre was vacant at the relevant time, he was not called for training.

4. In the counter-affidavit, it has been submitted that the applications for the post of Constable/RPF were invited vide, Employment Notice No. 1 of 1992, dated 24.8.1992 and not in the month of February, 1992 as alleged by the petitioner. It is stated that after the medical examination of the petitioner, a

Police enquiry was conducted to verify the antecedents of the petitioner. In the Police Enquiry, it was disclosed that Criminal Case No. 68 of 1993, u/s 302 IPC was pending against him and as such he was not sent for training because a criminal case u/s 302 IPC was pending against him and thus he was not eligible to be sent for training. It is also denied that the prescribed uniform and other articles were issued to the petitioner.

5. The petitioner, however, contends that he had been acquitted in the aforesaid criminal case.

6. In *Rani Laxmibai Kshetriya Vs. Chand Behari Kapoor and Others*, it has been held that merely because a person has been selected, he has no right to appointment. In the instant case, the petitioner was not even issued any appointment letter and in the circumstance of this case cannot have any indefeasible right to appointment.

7. The same ratio has been laid down by the Apex Court in *Shankarsan Dash Vs. Union of India*, wherein it has been held that writ petitioner's name was only included in the select list and no appointment letter had been issued to him and, therefore, he did not get any indefeasible right to be appointed.

8. No writ can be issued directing the respondents to issue appointment letter to the petitioner or for giving him training particularly when he was not eligible for appointment at the relevant time as a criminal case u/s 302 IPC was pending against him. It would also not be justifiable to issue any direction for appointment of the petitioner after about ten years as prayed by him.

9. For the reasons, stated above, the petition is dismissed. No order as to costs.