

(2003) 07 AHC CK 0209
In the Allahabad High Court
Case No : C.M.W.P. No. 46111 of 2002

Krishna Chandra Chaurasia	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 07-07-2003

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226
Penal Code, 1860 (IPC) — Section 323, 504, 506

Citation : (2003) 6 AWC 4699

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Arvind Srivastava, for the Appellant; B.N. Singh, Aradhana Chauhan and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Petitioner, Krishna Chandra Chaurasia aggrieved by an order dated 27th September, 2002, passed by Respondent No. 3, the Additional Director General/ Commandant, S.T.C., B.S.F., North Bengal, Siliguri, District Jalpaiguri (W.B.), copy whereof is annexed as Annexure-10 to the writ petition, approached this Court by means of present writ petition under Article 226 of the Constitution of India, whereby the Petitioner was terminated during his training period on the basis he had made false declaration in his enrolment form.

2. The facts leading to the filing of present petition are that the Petitioner after being selected by the Respondents was recruited for the post of Constable in Border Security Force. On recruitment, report regarding antecedent of the Petitioner being involved in a criminal case or any criminal case being pending was verified. The Petitioner's information was subjected to the verification by recruiting agency. The Petitioner has denied his involvement in any case or in criminal case being pending against him on the date when he filled up the application for recruitment. On verification, it was found that the statement furnished by the Petitioner was not correct.

3. The Petitioner was, in fact, involved in a criminal case and was facing trial in connection with case crime No. 100 of 1996, under Sections 323, 504 and 506 of I.P.C., registered at police station Sahjanwa, district Gorakhpur, on the basis of the F.I.R. dated 2nd June, 1996 lodged by one Shiv Kumar. Thus, the Petitioner was refused to be sent for training and his recruitment was cancelled on this point.

4. Aggrieved thereby, the Petitioner preferred a writ petition being writ petition No. 422 of 1999 before this Court, in which this Court vide its interim order dated 21st January, 1999 directed the Respondents to permit the Petitioner to complete his training of police constable subject to further orders by the Court.

5. Learned Counsel appearing on behalf of the Petitioner argued firstly that the offence in which the Petitioner was involved, was a petty offence and further since he does not come within the ambit of offence of involving moral attitude, the action of the Respondents to refuse to send him for training and cancelling his recruitment is bad in law as well as contrary to the statutory rules, whereas similarly situated other persons, who were found correct, have been directed to proceed with the training. So far as the argument based on Articles 14 and 16 of the Constitution of India is concerned, the Petitioner cannot be categorised in the same place because of his involvement in a criminal case, therefore, it is not open to the Petitioner to and deserves to be rejected. Learned Counsel for the Petitioner has relied upon a single Judge decision of this Court in Qamrul Hoda v. Chief Security Commissioner, N.E. Railway, Gorakhpur, 1997 (2) UPLBEC 1201. Learned Counsel has further relied upon a Division Bench decision of this Court in Awadhesh Kumar Sharma Vs. Union of India and others, wherein the Petitioner was refused to be appointed as Mazdoor on the charge that he has not mentioned in his statement given to the recruiting authority that he was facing a criminal case. The Division Bench of this Court in the case, referred to above, has relied upon the decision in the case of Qamrul Hoda v. Chief Security Commissioner, N.E. Railway, Gorakhpur, (1997) 2 UPLBEC 1201.

6. Learned Counsel appearing for the State has relied upon a decision of the Apex Court in Delhi Administration through its Chief Secretary and Others Vs. Sushil Kumar, wherein the Apex Court has held:

"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 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 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 him not desirable to appoint him to the service."

7. In the backdrop of the law laid down by the Apex Court on the facts of the case of Sushil Kumar, which are almost similar to that of the present case. The law laid down by the Apex Court is binding on me. In this view of the matter, this writ petition deserves to be dismissed.

8. In view of what has been stated above, this writ petition is dismissed. The interim order, if any, stands vacated. However, the parties shall bear their own costs.