
(2013) 09 CAL CK 0048
In the Calcutta High Court
Case No : Writ Petition No. 9769 (W) of 2013

Mahfuz Amed Mollah

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 18-09-2013

Acts Referred:

Citation : (2014) LabIC 12

Hon'ble Judges : Indra Prasanna Mukerji, J

Bench : Single Bench

Advocate : Yamin Ali and Ms. Saira Banu, for the Appellant; Yasin Ali and Ms. Tapati Samanta, for the Respondent

Final Decision : Disposed Off

Judgement

Indra Prasanna Mukerji, J.—On 24th May, 2012, the Government of West Bengal proposed the creation and filling up of 3351 posts of Village Police Volunteer under West Bengal Police. The force was to be deployed in gram panchayat areas. One eligibility criteria as would appear from a memorandum issued by the West Bengal Police Directorate on 18th June, 2013 was that the candidate should have no "adverse report regarding antecedents."

2. During the selection process, the candidates had to fill up a form. Item No. 12 of the form, which had to be filled up, is inserted below:--

Item No. 12 - Have you ever been convicted by a court of any offence or charge-sheeted by the police in c/w any criminal proceeding if so, the full particulars of the case should be given?

The answer that the writ petitioner provided was: "No".

3. He was selected on 4th October, 2012 but his appointment has been withheld. The reason is that the administration has found out that a criminal case is pending against him.

4. Learned counsel, for the writ petitioner, submitted that his client ran into

problems with his maternal uncle and aunt. A case has been registered as Nodakhali P.S. Case No. 149(4)/12. The writ petitioner has been accused under Sections 323/324/326/379/354/506/34 of the Indian Penal Code. It was submitted by the said learned counsel that initially the police did not register a First Information Report (F.I.R.) but later on, a criminal complaint case was started against the writ petitioner upon a complaint petition being filed before the Criminal Court. The police has filed a charge-sheet on 18th June, 2012 but no formal charge has been framed by the Court.

5. Now, the above form, inter alia, elicited an answer from a candidate as to whether he was charge-sheeted by the police. The charge-sheet was filed by the police on or about 18th June, 2012 but it was prior to submission of the form by the writ petitioner.

6. The question is: What is the effect of not providing this information in the above form?

7. In the case of Commr. of Police and Others Vs. Sandeep Kumar, a similar, provision in the form had to be filled up by the candidate. In fact, the information sought was to be in even more details. There, the writ petitioner was about 20 years of age, when he was involved in a criminal case and later acquitted. He did not disclose this information while applying to be appointed as a temporary head constable (ministerial). His candidature was cancelled. The Supreme Court affirmed the view of the Delhi High Court which held that the cancellation of the writ petitioner's candidature, on the above ground of concealment was not proper. Their lordships of the Supreme Court remarked "Youth often commits indiscretions, which are often condoned."

8. Here, the police has submitted a charge-sheet. No charge has yet been framed by the Court. The dispute is only a family dispute involving the maternal uncle of the petitioner. The petitioner is about 30 years of age. I do not think that merely because the above criminal case is pending, the petitioner should be denied employment. I think that a better course would be, if the petitioner is considered for appointment, he is to obtain an order of discharge from the criminal court within a stipulated time. If a formal charge is framed against him, his appointment will stand revoked with retrospective effect, it should also be provided.

9. I direct the Superintendent of Police, South 24-Parganas, to consider the candidature of the writ petitioner, following the above observations and to pass the necessary order within two months from the date of communication of this order.

10. The writ petitioner need not be given a personal hearing.

11. The writ application is disposed of by the above order. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.