
(2016) 04 JH CK 0080
In the Jharkhand High Court
Case No : W.P.(S) No. 5239 of 2014.

Police 728 Anant Kumar alias Bablu Kumar	APPELLANT
Vs	
The State of Jharkhand and Others	RESPONDENT

Date of Decision : 12-04-2016

Acts Referred:

Citation : (2016) 149 FLR 728 : (2016) 3 JCR 201

Hon'ble Judges : Pramath Patnaik, J.

Bench : Single Bench

Advocate : Satish Prasad, Advocate, for the Appellant; Nitika Agrawal, J.C. to A.G, for the Respondent

Final Decision : Dismissed

Judgement

Pramath Patnaik, J. - In the accompanied writ application, the petitioner has prayed for quashing the order dated 31.07.2014 issued by the Superintendent of Police, Bokaro (respondent no.3) pertaining to dismissal from services and also for reinstatement in the services with all consequential benefits.

2. Sans details, the brief facts, as disclosed in the writ application, is that petitioner was appointed as Police Constable on 12.07.2006 by the district order issued by the respondent no.3 after death of his father on compassionate ground. While continuing in services, allegation of suppression of facts to the effect that criminal case is levelled against the petitioner as evident from letter dated 01.10.2011 as contained in Annexure-1 series. The petitioner vide order dated 31.07.2014 has been dismissed from services without considering the detailed show cause reply. Thereafter, the petitioner submitted representation on 25.08.2014 to the appellate authority against the order of dismissal.

3. A supplementary affidavit 05.02.2016 has been filed on behalf of the petitioner, wherein it has been submitted that the process of his appointment started on 09.05.2006 after submission of application with declaration on prescribed form and the criminal case being Hulasganj P.S. Case No.114 of 2006

has been instituted on 04.06.2006 under Section 302, 34 I.P.C and 27 of the Arms Act, in which the petitioner has been named, therefore, on the date of submission of application, no case was pending against the petitioner. The petitioner joined as constable on 12.07.2006 as evident from Annexure-11 to the supplementary affidavit.

4. Per contra, a counter affidavit has been filed on behalf of the respondents controverting the averments made in the writ application. In the counter affidavit, it has been inter alia stated that petitioner was temporarily appointed as constable under the quota of compassionate appointment on 12.07.2006 vide Bokaro district order dated 12.07.2006 and the temporary appointment was made subject to the verification of the character of the petitioner with condition that the petitioner shall be terminated from services without giving any reason found against the petitioner. It also came to light that on verification of the character of the petitioner, the Jharkhand Police, Bihar has reported vide their memo dated 01.04.2011 along with the character certificate of the petitioner that during verification of the character of the petitioner, it was found that there was criminal case bearing Hulasganj P.S. Case No.114 of 2006 registered under Section 302, 34 I.P.C and 27 of the Arms Act, in which the petitioner was named accused person and after investigation charge sheet bearing 23/2007 dated 22.05.2007 was submitted against the petitioner showing that the petitioner was declared as an absconder as per Annexure-A to the counter affidavit. On consideration of the character certificate of the petitioner, it was found in the application form given at the time of the appointment that it is filled with "X" which marks "No" at Column-7, where the petitioner was supposed to inform the pending cases against the petitioner, which shows the petitioner suppressed and concealed the fact of pending criminal case. The purpose of seeking such information is not to find out the nature or gravity of a criminal case, rather such information is sought with a view to judge the character and antecedents of the job seeker or suitability to continue in service. It has further been submitted that there is no violation of Rule 847 of the Jharkhand Police Manual nor Rule 845, 846 and 847 as quoted in the counter affidavit. It is quite manifest that the Rule 847 is applicable only in cases specifically mentioned under Rule 845 and Rule 846 otherwise not applicable and further Rule 845 and Rule 846 are applicable only to cases lodged after inducting into police department in discharge of the duties and not with respect to the cases pending against the police officer before inducting into the police department. In this respect, decision of the Hon'ble Apex Court in Devendra Kumar v. State of Uttaranchal and Ors. reported in (AIR 2013 SC 3325), paragraph 21 and 22 has been quoted in the counter affidavit.

5. Heard Mr. Satish Prasad, learned senior counsel appearing for the petitioner as well as Ms. Nitika Agrawal, J.C. to A.G., appearing for the respondents.

6. Mr. Satish Prasad, learned counsel appearing for the petitioner has vehemently submitted that the impugned order of punishment of dismissal from services from the post of police constable has been made in violation of Rule 847 of the

Police Manual. Learned counsel for the petitioner further submits that in the case in hand, after the death of the father on 12.09.2005, a Sub-Inspector of Police, the process for appointment of petitioner started in the year 2005 before the institution of Hulasganj P.S. Case No.114 of 2006 which was instituted on 04.06.2006. The petitioner joined the services on 12.07.2006 and the process of his selection started prior to the appointment of the petitioner, therefore, there is no question of suppression of facts. Learned counsel for the petitioner further submits that upon assuming sake of arguments that there has been suppression of facts by the petitioner, but considering the gravity of charges the impugned order of punishment appears to be grossly disproportionate, excessive and not commensurate with the gravity of offences.

7. As against this, Ms. Nitika Agrawal, J.C. to A.G., appearing for the respondents has assiduously submitted that furnishing of wrong information or concealment of the facts makes the petitioner unsuitable for appointment and liable for removal/termination. If the petitioner is guilty of furnishing wrong information and withholding such material information or making false representation itself amounts to moral turpitude.

8. After hearing the learned counsels for the respective parties at length and on perusal of the records, I am of the considered view that the petitioner has not been able to make out a case for interference by this Court due to the following facts and reasons:

(I) It has been brought to light that the petitioner was admittedly appointed as constable under the quota of compassionate appointment and the said appointment was subject to verification of the character of the petitioner with the conditions that the petitioner shall be terminated from services without assigning any reason if any adverse remarks against the petitioner is found during verification of the character. Upon verification of the character, it was found that there was criminal case being Hulasganj P.S. Case No.114 of 2006 has been instituted on 04.06.2006 under Section 302, 34 I.P.C and 27 of the Arms Act, in which the petitioner was arraigned as an accused person and in the said case charge sheet has been submitted against the petitioner showing him an absconder as per Annexure-A.

(II) The very purpose of seeking information is not to find out the nature and gravity of the offence but to judge the character and antecedent of the job secured or his suitability to continue in services. In the instant case, admittedly there has been suppression/concealment of the facts which led to dismissal from services.

(III) In case of similar nature, in case of Devendra Kumar v. State of Uttaranchal and Ors. reported in (2013) 9 SCC 363, the Apex Court in its illuminative narration at paragraph 23 and 24, has been pleased to hold:

"23. In R. Radhakrishnan v. DG of Police, this Court held that furnishing wrong information by the candidate while seeking appointment makes him unsuitable

for appointment and liable for removal/termination if he furnished wrong information when the said information is specifically sought by the appointing authority.

24. In the instant case, the High Court has placed reliance on the Government Order dated 28-04-1958 relating to verification of the character of a Government servant, upon first appointment, wherein the individual is required to furnish information about criminal antecedents of the new appointees and if the incumbent is found to have made a false statement in this regard, he is liable to be discharged forthwith without prejudice to any other action as may be considered necessary by the competent authority. The purpose of seeking such information is not to find out the nature or gravity of the offence or the ultimate result of a criminal case, rather such information is sought with a view to judge the character and antecedents of the job seeker or suitability to continue in service. Withholding such material information or making false representation itself amounts to moral turpitude and is a separate and distinct matter altogether than what is involved in the criminal case."

9. Viewed thus, the impugned order of dismissal dated 31.07.2014 passed by respondent no.3 pertaining to dismissal from service, does not warrant interference by this Court.

10. Resultantly, the writ petition sans merit is dismissed.