
(2013) 02 RAJ CK 0167

In the Rajasthan High Court

Case No : Civil special Appeal (Writ) No. 119 of 2011

Rajendra

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 22-02-2013

Acts Referred:

Citation : (2013) LabIC 3304

Hon'ble Judges : Amitava Roy, C.J;V.K. Mathur, J

Bench : Division Bench

Advocate : V.K. Mathur, for the Appellant; I.S. Pareek, for the Respondent

Judgement

Amitava Roy, C.J.—Heard learned counsel for the parties. In challenge is the judgment and order dated 6.11.2011 passed by the learned Single Judge in S.B. Civil Writ Petition No. 2669/2010 whereby the rejection of the appellant/writ petitioner's candidature for appointment as constable in the State Service, was upheld.

2. Shortly put the facts relevant for the disposal of the instant appeal are that the appellant/writ petitioner offered his candidature in response to the advertisement dated 7.4.2008 initiating a process for appointment to the post of Constable in the District of Jodhpur in State service. In the application form that was required to be filed by a candidate, he answered query (sic) under clause 15 thereof as follows:--

(Vernacular matter omitted.....Ed.).

3. He supplemented the above answers with the following:--

(Vernacular matter omitted.....Ed.)

4. The application was filed on 28.4.2008. The declaration that was appended to the application inter alia mentioned that in case, there is any suppression of fact which was required to be disclosed, the same would immediately entail the cancellation of the candidature. Admittedly, as the contents of the first extract

would disclose, the appellant/writ petitioner had initially answered in negative to the aforementioned questions and thereafter, in the affirmative. Be that as it may, on the completion of the selection process, the name of the appellant/writ petitioner was empanelled in the select list dated 30.8.2008 and his name appears at S. No. 35. Thereafter, he submitted his verification roll in which in reply to the query in clause 8, he answered in the negative in the following terms:--

(Vernacular matter omitted.....Ed)

5. This apparently was inconsistent with his answer to the aforementioned queries in the application form. It transpires that the appellant/writ petitioner thereafter had made a written request to the concerned State authority for making necessary corrections in the verification roll that he had submitted. This was on 16.10.2008, whereafter he was permitted to submit a fresh verification roll in which he gave the particulars of the case in which he has been tried and convicted u/s 9/11 of the Rajasthan Smoking Act. In the subsequent verification roll as well, he stated that he did not suffer any punishment in this case as hereunder:--

(Vernacular matter omitted.....Ed)

6. In reply to question No. 8, the appellant/writ petitioner thus disclosed the particulars of the case, one bearing to be 207/2007 u/s 9/11 of the Rajasthan Smoking Act and stated that he had not been convicted. This is in sharp contrast to the order dated 24.9.2008 passed in Criminal Original Case No. 6/2008 tried and decided by the learned Additional Civil Judge (J.D.) cum Judicial Magistrate No. 7, Jodhpur convicting the appellant/writ petitioner under the above provisions of the Act and sentencing him to pay a fine of Rs. 200/- in default to suffer simple imprisonment for seven days.

7. The learned single Judge on a consideration of the pleaded facts and documents on record, arrived at a finding that the sequence of events and vacillating stands of the appellant/writ petitioner did create some doubt about his intentions and, therefore, declined to interfere with the decision of the State authority in not providing him appointment in spite of his selection.

8. Mr. V.K. Mathur, learned counsel for the appellant/writ petitioner, has urged that having regard to the strata of society to which the appellant/writ petitioner belongs as well as his academic qualifications, he was not only unmindful and ignorant of the implication of the charge for which he had been tried u/s 9/11 of the Rajasthan Smoking Act, his prompt steps to make necessary corrections in the application form as well as verification rolls, demonstrate his bona fides and thus, the appointment to him ought not to have been denied in the facts and circumstances of the case. Referring to Rule 13 of the Rajasthan Police Subordinate Service Rules, 1989, he has further urged that as the conduct of the appellant/writ petitioner, by no means, can be brought within the purview of the offence involving moral turpitude, he ought not to have been penalised for minor,

insignificant and condonable lapses. In support of his contentions, learned counsel for the appellant/writ petitioner placed reliance, amongst others, on the following decisions of this Court:--

(1) Surendra Singh, v. State and others reported in 2012 (3) WLC (Raj) 350.

(2) Suryabhan Singh Solanki Vs. State of Rajasthan and Others,

9. In reply, Mr. I.S. Pareek, learned counsel for the respondents, has argued that as would be apparent from amongst others, the application form and verification rolls submitted by the appellant/writ petitioner in succession that he throughout had endeavoured to suppress the fact bearing on his trial and conviction in a criminal case, an information very vital in the matter of recruitment to a post in the police department, the decision to deny him appointment was rightly not interfered with by the learned single Judge and this Court having regard to constricted scope of scrutiny in intra court appeal would not overturn this verdict.

10. Upon hearing the learned counsel for the parties and on a consideration of the materials on record, in particular, the application form as well as verification rolls submitted by the appellant/writ petitioner, we are of the unhesitant opinion that the view taken by the concerned State authority and sustained by the learned single Judge is a plausible one. Not only the application form reflects in clear terms the corrections made by the appellant/writ petitioner to the answers in the negative provided earlier, the verification rolls submitted later on by him on the query bearing on his conviction in a criminal case and consequential punishment, do not tally therewith. Not only in the first verification roll, the answer had been negative to the query No. 8 as above, in the second verification roll permitted to be submitted by him by the concerned State authority he furnished a wrong case number asserting that he had not been convicted or punished in the said case. This, to say the least, is not borne out and is otherwise belied by the judgment and order dated 24.9.2008 passed in Criminal Original Case No. 6/2008 by the learned Additional Civil Judge (J.D.) cum Judicial Magistrate No. 7, Jodhpur whereby he was not only convicted u/s 9/11 of the Rajasthan Smoking Act but was imposed the punishment of a fine of Rs. 200/- in default simple imprisonment for seven days. These inconsistencies in the inputs furnished by the appellant/writ petitioner, in our view, in the face of the consequence of cancellation of the candidature as contemplated under the declaration appended to the application form, as taken note of by the concerned State authority, in denying appointment to the appellant/writ petitioner, cannot be brushed aside as insignificant and inconsequential. We find ourselves in agreement with the analysis of the facts and ultimate conclusions recorded by the learned single Judge. In this view of the matter, we do not feel persuaded to intervene.

11. The authorities cited at the bar, in our comprehension, are distinguishable on facts and are of no avail to the appellant/writ petitioner.

12. In the result, the instant appeal lacks in merit and is hereby dismissed. Stay

petition also stands dismissed.