
(2015) 02 RAJ CK 0010
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10656/2012

Rajesh Kumar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-02-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 324, 34, 342, 504

Citation : (2015) 02 RAJ CK 0010

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : R.S. Choudhary, for the Appellant; Anil Bissa, A.G.C., Advocates for the Respondent

Final Decision : Allowed

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, the petitioner seeks a direction to the respondents to appoint the petitioner on the post of Constable (General) in pursuance of the advertisement dated 14.10.2010 and to grant him all consequential benefits.

2. Facts in brief are that an advertisement Annexure-1 came to be issued by the Director General of Police inviting applications from eligible candidates to be appointed as Constable General. The petitioner applied in the District Sri Ganganagar in pursuance of the said advertisement for appointment as a Constable (General). The application was having a column No. 13(Ka) wherein the applicant was required to mention as to whether a challan had been filed against him in any court in any criminal case. Two options were provided in front the column either of acceptance or of refusal. The petitioner ticked the column of refusal and submitted the form. The verification roll which is to be filled in after the candidates clear the written examination requires a more detailed input. The column No. 8 of the roll requires information to be filled in as to whether the candidate has ever been implicated as an accused in criminal case. The petitioner cleared the written examination and submitted the verification roll mentioning

that a criminal case No. 417/2005 was pending against him for the offences under Sections 323/34, 324/34, 504 and 342 I.P.C. It appears that the petitioner's candidature was held back on the ground of this criminal case and the matter has been referred to the police headquarter by communication Annexure-7 dated 27.8.2012.

3. Counsel for the petitioner contends that the petitioner did not make any concealment of fact whatsoever whilst filling the application form in order to seek appointment. The application form bears a specific column with a pertinent query as to whether a challan was filed against the candidate in a Court of law in a criminal case. Learned counsel submits that admittedly no challan was ever filed against the petitioner in any criminal case prior to the application form being submitted. He submits that an F.I.R. was registered against the petitioner at P.S. Pilibanga in the year 2005 wherein the police gave a negative final report whereafter the Court took cognizance against the petitioner for the aforesaid offences. Learned counsel submits that when this information was required to be filled only at the time of submission of the verification form. The petitioner duly mentioned the detail of the criminal case in the verification roll. Learned counsel thus submits that it is not a case wherein the petitioner is guilty of concealing any fact whilst seeking appointment, and therefore, the respondents authorities be directed to give appointment to the petitioner as Constable General. Learned counsel further submits that if the petitioner is offered appointment, he is ready to submit an undertaking that in the event of criminal case being decided against him, the respondents shall be at liberty to terminate him from service. Thus, he prays that the writ petition deserves to be accepted.

4. Per contra Mr. Anil Bissa, learned A.G.C. vehemently opposed the submissions advanced by the petitioner's counsel. He submits that the controversy involved in the case at hand is squarely covered by the order dated 28.04.2014 passed in the case of Jagroopa Ram v. State of Rajasthan and Ors. (S.B. Civil Writ Petition No. 10976/2012). He contends that as the petitioner concealed the fact of pendency of criminal case in the application form, he is not entitled to be appointed as a police constable. However, he frankly concedes that in the column No. 13(Ka) of the application form which an applicant candidate is required to fill at the time of applying for appointment, the only information which is sought is as to whether a challan has been filed against the candidate or not. He does not dispute that no charge sheet was filed against the petitioner in the criminal case referred to in the verification roll but rather the investigation resulted into a negative final report as is mentioned in the communication Annexure-7 dated 27.8.2012 by which the petitioner's case was forwarded to the police headquarters.

5. Heard and considered the arguments advanced at the bar. Perused the material available on record.

6. Upon going through the application form and the verification roll which have been placed for the Court's perusal from the record available with the learned

A.G.C., it is evident that in the column No. 13(Ka) of the application form the candidate was required to provide information regarding filing of challan against him, if any, in a criminal case. Two boxes either of acceptance or refusal are provided in front of the column. Thus, the petitioner was required to mark either the acceptance or refusal box while filling the form. Admittedly, as no challan was filed against the petitioner in the criminal case registered against him, he could not have and rightly did not tick the column of acceptance but rather ticked the box of refusal in the application form. Thereafter when the petitioner cleared the examination, the requirement of filling the detailed verification roll arose, therein it was essential to mention the details of criminal case, if any registered against the candidate. While filling the said verification roll, the petitioner mentioned the fact that a criminal case was registered against him in the year 2005. Thus, evidently it is not a case wherein the petitioner concealed any fact while filling the application form. Therefore, the petitioner's candidature for being appointed as a constable cannot be defeated on the ground of concealment of fact. The judgment cited by the counsel for the respondent is totally distinguishable because therein the facts reveal that the candidate had concealed the fact of charge sheet having been filed against him while filling the application form.

7. The respondent department would be well advised to amend the application form in order to remove such anomaly in future selection process. A specific column should be introduced in the application form eliciting information as to whether the applicant is involved in a criminal case or not and the succinct details thereof.

8. As an upshot of the above discussion, the writ petition is allowed and the respondent authorities are directed to consider the petitioner's case for appointment to the post of Constable as per law within a period of two months from the date of submission of copy of this order. No order as to costs.