

(2016) 02 RAJ CK 0001

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3813 of 2014

Ramakant Verma

APPELLANT

Vs

Secretary (Administration) Rajasthan Rajya Vidhyut Parsaran
Nigam Ltd. & Ors.

RESPONDENT

Date of Decision : 04-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 1 CLR 767

Hon'ble Judges : M.N. Bhandari, J.

Bench : Single Bench

Advocate : Lokendra Singh Shekhawat, Advocate, for the Respondent

Final Decision : Allowed

Judgement

M.N. Bhandari, J. - By this petition, a challenge is made to the order of termination dated 12th December, 2012.

The petitioner was appointed on the post of Technical Helper as probationer trainee on certain terms and conditions. One of the conditions given in the appointment order was regarding antecedents of the candidates to be verified from the Police and in case of doubtful or unsatisfactory character, services to be terminated without giving notice.

2. The petitioner was appointed on the post of Technical Helper vide order dated 9th April, 2010. He joined the service immediately thereupon and worked with the respondents. In the meanwhile, the character verification was sought from the Police. Therein, pendency of two criminal cases was reported. The petitioner was soon terminated from service due to the pendency of the criminal cases. The order aforesaid has been challenged on the ground that mere pendency of the criminal case does not mean doubtful or unsatisfactory character. Apart from the aforesaid, out of two criminal cases, the petitioner had been acquitted in Criminal Case No.255/2007 much prior to the impugned order of termination. The

petitioner has been acquitted even in other case bearing No.626/2007. It is settled law that mere pendency of criminal case cannot be considered to be doubtful or unsatisfactory character. It is specially when only one case was pending against the petitioner before termination. It was for the offence under Sections 341, 323 and 354 IPC.

3. The similar controversy came up for consideration before this court in the case of Rajesh Kumar v. State of Rajasthan and Ors., reported in 2012 WLC 568. Therein, referring to the earlier judgments of this court in different cases, the similar issue was decided. The same view was taken by this court in the case of Ashu Kumar v. State of Rajasthan and Ors., reported in 2009 WLC 71. It is not a case where the petitioner had suppressed the fact pertaining to the pendency of the criminal case so as to terminate his services rather none of the candidates were asked to disclose about the pendency of criminal case. In the facts and circumstances of the case, impugned order may be set aside.

Learned counsel for respondents has contested the case.

It is submitted that as per condition no.18 of the order of appointment, service of the petitioner has been terminated.

4. I have considered the rival submissions made by the parties and perused the record. The petitioner was appointed on certain terms and conditions. It is given in the order of appointment dated 9th April, 2010. The Condition No.18 of the order of appointment has been referred by learned counsel for the respondents and otherwise invoked for termination of service of the petitioner.

The Condition No.18 is thus quoted for ready reference:

"The antecedents of these candidates will also be got verified from the Police. In case doubtful or unsatisfactory character, his/her services will be terminated without giving notice and he/she will not be entitled to any compensation."

As per condition quoted above, the antecedents of the candidates were to be verified from the Police and in case of doubtful or unsatisfactory character, termination of service can be effected without notice.

5. The question for my consideration is as to whether mere pendency of criminal case can be said to be a doubtful or unsatisfactory character even without going into the nature of offence. The post herein is not in Police or Armed Force but is of Technical Helper in Electricity Company. Apart from the aforesaid, the petitioner was acquitted in one case bearing No.255/2007 much prior to the order of termination yet it has been referred therein. The petitioner's acquittal in other case is by the order dated 13th December, 2012 i.e. within two days of termination. The offences therein are under Sections 341, 323 and 354 IPC and not of the grave nature. The doubtful and unsatisfactory character needs to be drawn in reference to the alleged offence and not merely due to pendency of the criminal cases. If the intention of the appointing authority would have been to discontinue employees against whom criminal cases are pending then Para 18 of

the appointment order would have been worded differently. It should have been with the condition that if any criminal case is found pending, it would result in termination of service. The appointing authority was cautious not to effect termination only due to pendency of the criminal case but when it results in doubtful or unsatisfactory character.

6. The impugned order does not reflect as to how mere pendency of the criminal case is considered to be doubtful or unsatisfactory character. The impugned order makes a reference of one case which had already been decided favourable to the petitioner resulting in acquittal. For all reasons given above, I find that a case is made out to cause interference in the impugned order and is accordingly quashed. The petitioner would be reinstated in service by the respondents within 15 days however he would not be entitled to the back wages of the intervening period having not worked. The petitioner would however be entitled to other consequential benefits.

7. The writ petition is allowed with the aforesaid along with stay application.