
(2000) 07 MP CK 0056
In the Madhya Pradesh High Court
Case No : Writ Petition No. 4191/99

Ramratan Yadav

APPELLANT

Vs

Kendriya Vidyalaya Sangthan and Others

RESPONDENT

Date of Decision : 25-07-2000

Acts Referred:

Penal Code, 1860 (IPC) — Section 294, 307, 323, 34, 341

Citation : (2000) ILR (MP) 1243 : (2000) 4 MPHT 148 : (2001) 1 MPLJ 205

Hon'ble Judges : Bhawani Singh, C.J.; S.S. Saraf, J

Bench : Division Bench

Advocate : Sujoy Paul, for the Appellant; Satish Sharma, for the Respondent

Final Decision : Allowed

Judgement

Bhawani Singh, C.J.

This petition challenges the judgment of the Central Administrative Tribunal, Jabalpur, dated July 15, 1999, in O.A. No. 150/99, whereby petition has been dismissed and following this, review application No. 21/99 has also been dismissed by order dated September 6, 1999. It would be necessary to narrate short facts of the case for appreciation of the question raised for determination by the petitioner.

Petitioner possess Bachelor's Degree in Arts and Master's Degree in Physical Education. Pursuant to advertisement issued by the respondents, he applied for the post of Physical Education Teacher. He was selected by the respondents and appointment order dated December 6, 1997 (Annexure P-3) was issued in his favour.

After the appointment in the Kendriya Vidyalaya as Physical Education Teacher, the petitioner was called upon to fill in an attestation form. In Column 12 (i), petitioner mentioned "No" instead of making mention of a pending criminal case against him in the Court of law. Petitioner did not mention about this fact as he did not understand the meaning of "Prosecution" or "Conviction" since his

education was in Hindi. Therefore, petitioner submits that non-mention of pending prosecution was absolutely bona fide and for the stated reasons, otherwise he had no intention to deceive the respondents for obtaining service.

Petitioner explains that there was unrest at Raipure Square (Jabalpur) where people were ventilating their grievances against the State Authorities qua non-grant of earthquake relief fund. Petitioner was a bystander, but was roped in by some of his friends who formed part of the mob. Suddenly, petitioner came to know that a case under Sections 323/341/294/ 506B read with Section 34, IPC had been registered against him also. The case has since been withdrawn by the State Government, which means, it was realised by the State Government that prosecution of persons involved in that incident was not desirable since they were ventilating their genuine grievances. This fact displays the bona fides of the petitioner and supports his grievance that he had no intention to participate in this agitation in which he was taken by his friends.

Respondents thought that the petitioner made suppression of this fact in the attestation form and terminated his service through memo dated 7/8-4-1999 (Annexure P-4). Tribunal has rejected the case holding that the defence taken by the petitioner could not be accepted since it did not inspire confidence, therefore, the employment secured by making false statement, could be terminated. Learned counsel for the petitioner submitted that decision of the Tribunal is liable to be set aside since it did not appreciate the controversy properly, legally and in consonance with the principles of justice. Genuine defence put up by the petitioner has been rejected without justification. Assuming that the petitioner was party to the agitation relating to which a criminal case was initiated against him and others, the same did not involve moral turpitude, therefore, serious view of the same ought not to have been taken. Petitioner was able to secure service with great difficulty and he could do so by securing proper merit in the selection.

Learned counsel for the respondents also took us through the judgment of the Tribunal and explained the reasons for conclusion drawn by the Tribunal.

Having considered the aforesaid submissions of learned counsel for parties, we are of the opinion that this writ petition deserves to be allowed. Non-mention of pending criminal case in Column 12 (i) of the attestation form can be for the reasons stated by the petitioner; more so when the medium of instructions in this State is primarily Hindi. That apart, the criminal case in which the petitioner was involved, has been withdrawn by the State Government. That means, the case was not serious and involvement of agitators in it was found for justification, otherwise, the case against them would not have been withdrawn. That apart, it did not involve moral turpitude disqualifying the petitioner from seeking the employment.

In 1999 AIR SCW 474 (Regional Manager, Bank of Baroda v. Presiding Officer, Central Govt. Industrial Tribunal and Anr.), the Court quashed the termination of the petitioner who had given false statement about pending prosecution with

intention to secure employment holding that not so grave misconduct was involved in the case u/s 307 of the IPC, nor would that have direct impact on appointment in the bank and the petitioner had ultimately been acquitted in that case. This case stands on a better footing as the offences involved were such which formed part of prosecution of persons involved in the agitation for obtaining some relief from the Government. There is absence of motive to commit any serious offence. Prosecution of the agitators was not found desirable by the State Government which withdraw the case against the accused.

Accordingly the writ petition is allowed. Judgment of the Central Administrative Tribunal impugned in this case and review order are set aside. Petitioner shall be deemed to be in service and entitled to consequential benefits. Costs on parties.