
(2010) 07 AHC CK 0241
In the Allahabad High Court
Case No : Writ Petition No. 4683 (S/S) of 2010

Satya Prakash Pandey

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-07-2010

Acts Referred:

Citation : (2010) 07 AHC CK 0241

Hon'ble Judges : Shabihul Hasnain, J

Final Decision : Allowed

Judgement

Shabihul Hasnain, J.—Heard Dr. L.P. Mishra, learned counsel for the petitioner and Sri I. H. Farooqui, Assistant Solicitor General of India for all the opposite parties.

2. This matter was initially heard on 14.7.2010 and an objection regarding territorial jurisdiction was raised by Sri I. H. Farooqui. The termination order has been passed at Narsingarh, Tripura, hence it was argued on behalf of opposite parties that this Court does not have territorial jurisdiction to take cognizance of this matter. Learned counsel for the petitioner has argued that the termination order though has been passed at Tripura but the written test of the petitioner was held at Lucknow and he was called for interview at Lucknow. The medical examination was also done at Lucknow and the appointment letter was issued to the petitioner by the Deputy Inspector General of Police, Central Reserve Police Force, Lucknow. Moreover, the basis of termination order is a police verification from police station Unchahar, District Raibareli in Uttar Pradesh. Lucknow and Raibareli both are within the jurisdiction of Lucknow Bench. Dr. Mishra has further argued that in a case reported in AIR 1976 Supreme Court 331 (Naseeruddin Versus State Transport Appellate Tribunal) it has been held that the Courts within whose jurisdiction part of cause of action has accrued shall have the jurisdiction to decide the matter. On all these counts the writ petition is maintainable at Lucknow.

3. Sri I. H. Farooqui says that he is not pressing the point of territorial

jurisdiction hence this Court proceeds with the merit of the case.

4. The facts of the case briefly stated are that the opposite parties advertised in news papers for filling up vacancies in the Central Reserve Police Force. Petitioner applied and was called for Physical Examination. Petitioner appeared for Physical Examination at Lucknow and cleared the same. The petitioner was subsequently called for Written Test to be held at Lucknow on 19.12.2008. The petitioner appeared in the said written test at Lucknow and was declared successful vide result dated 13.01.2009 and was called for interview at Lucknow on 16.01.2009. The petitioner appeared in the said interview on 16.01.2009 and was declared successful on 2.2.2009. Thereafter, the petitioner appeared in the Medical Examination and was declared selected on 16.2.2009. Appointment letter was issued to the petitioner by the Deputy Inspector General of Police, Central Reserve Police Force, Lucknow in pursuance whereof the petitioner joined on 13.3.2009 on the post of Constable at Lucknow in the office of opposite party No.3. The petitioner was sent for training to Kerala and successfully completed his training. After completion of the training, the petitioner was informed that he was to be posted with the 87th Battalion stationed at Narsingarh, Tripura and an officer from the said battalion arrived and took the petitioner and other candidates who had successfully completed the training along with him to the new place of posting. The petitioner had just joined at his new place of posting at Narsingarh, Tripura where he was served with the impugned notice date 16.6.2010 issued by the Commandant, 87th Battalion opposite party no.4 terminating the services of the petitioner.

5. At the time of his appointment, the petitioner was required to fill up a "Verification Roll" wherein certain information was required to be given by the petitioner about himself. Sri I. H. Farooqui has produced the original record and the form filled in by the petitioner is also before the Court. In column 12 of the said form it was required that the petitioner may furnish information as to whether he was arrested or any case is pending against him in a court of law. Against both these columns the petitioner has written "No". The sole case for cancellation of the petitioner's selection is of verification. It has been found that a case under Sections 147/323/504 and 506 IPC were registered as Case Crime No.82 of 2007 at Police Station Unchahar, District Raibareli.

6. Petitioner's services have been terminated on the ground that the petitioner has supplied false information. Notice of termination was issued on 16.6.2010 to be effective after the expiry of a period of one month from the date of the notice. Meaning thereby that the petitioner's service have come to an end on 15.7.2010.

7. Dr. Misra, learned counsel for the petitioner has argued that the very fact that the petitioner has stated to have "No" against column 12 can not be denied as a matter of fact, but he urges the Court to consider the effect of the case pending against the petitioner in the court at Raibareli. He submits that the petitioner at the time of filling up the form was 20 years of age. He comes from a rural background and the sections under which the case has been registered are

147/323/504/506 IPC. The police report shows that there were twelve persons involved in this petty offence and the petitioner was granted bail from the police station itself. Dr. Mishra has argued that such small offence which did not include any moral turpitude or any sinister design on the part of the young candidate can not be considered as a serious impediment in his joining the department. On all the other counts the petitioner has qualified to be a Constable and except for this blot there is nothing against the petitioner to withdraw his selection. The police verification report has also been placed before this Court. The Incharge of the police station has inquired from the villagers and has found that the petitioner is of good moral character and there is no complaint against him in the records. The Inspector has gone to the extent of writing that the case pending before the Court can not be an impediment for joining the services by the petitioner. The overall assessment which transpires from the report of the stationincharge shows that the petitioner except for that petty offence is otherwise a good member of the society.

8. Dr. Mishra has further argued that even if the petitioner had given this information prior to the verification it would not have stopped the opposite parties from allowing him to appear in the examination and competing with all others.

9. An important question which arises for consideration is whether the petitioner who is going to join a disciplined force should have given correct information instead of writing "No". Sri I. H. Farooqui has argued that this aspect of the matter is the sole consideration for terminating the services of the petitioner.

10. Dr. Misra, on the other hand, has argued that the candidate of twenty years of age with rural background could not comprehend the real import of the question put in by the opposite parties in column12. He has argued that as the petitioner was granted bail from the police station itself, the petitioner thought that the matter has come to an end. Since he was not convicted or sent to jail, he could not understand that he ought to write that any criminal case is pending against him. The matter was too trivial in the assessment of the petitioner. Since the question has been asked in a composite format about the petitioner being arrested or sent to jail, convicted or bound down, a boy of 20 years could not segregate and give category wise reply for lack of comprehension. Since the petitioner was never convicted and never sent to jail he thought it proper to answer "No".

11. This line of argument can not be readily accepted by the Court but definitely leaves a mark on the mind. When a series of questions are asked and one word answer is required, it often becomes difficult to give a correct answer. In the present case, it was a young man who was just beginning his carrier with a natural nervousness of being recruited to police force. His excitement may have forced the petitioner to commit such a mistake which can not conclusively be termed as deliberate perjury. It can be clearly seen that composite questions can not be answered in "Yes" or "No". In the present case no separate columns have

been assigned for giving the details. Clause12 is reproduced as under:

"12. (a) Have you ever been arrested, prosecuted, kept under detention or bound down/fined or convicted by a court of law for any offence or debarred/disqualified by any Public Service Commission from appearing at its examination/selections or debarred from taking any examination/rusticated by any University or any other education authority/Institution ?:"

Had the columns been arranged in the following manner:

"12. (a) Have you ever been

(a) arrested: Yes No.

(b) prosecuted: Yes No.

(c) kept under detention : Yes No.

(d) or bound down/fined: Yes No.

(e) convicted by a court of law for any offence: Yes No.

(f)or debarred/disqualified by any Public Service Commission from appearing at its examination/selections: Yes No.

(g) or debarred from taking any examination/rusticated by any University or any other education authority/Institution?: Yes No.

12. It would have been clear and practicable for the candidate to answer properly and correctly but when eight different shades of questions are being combined in one column and the answer has to be given in "Yes" or "No", naturally, a young boy of twenty years can not be expected to write "Yes" because in the present case he was not prosecuted nor kept under detention nor bound down nor fined nor convicted by a court of law. Hence, his answer is "No" to this question can not be taken as a big offence rendering him totally ineligible for appointment.

13. Further the argument of Sri I. H. Farooqui that in clause3 of the same verification roll it has been clearly stated as under:

"3. If the fact that false information has been furnished or that there has been suppression of any factual information in the Verification Roll comes to notice at any time during the service of a person, his services would be liable to be terminated."

14. He says that the petitioner's services have been terminated under Clause3 of the Verification Roll. This clause can be invoked only when the opposite parties come to a definite conclusion that the information is a false information. The very fact that composite questions of fact can not be answered in monosyllable "Yes" or "No" renders the arguments of Sri Farooqui as fallacious. It can not be accepted.

15. Apart from the police report from the Inspector Incharge of the police station

Unchhar, Raibareli, the character certificate at the level of the Superintendent of Police, Raibareli has also been obtained which shows that character of the petitioner is satisfactory and there is no adverse material against him. A similar character certificate has been issued by the Gram Pradhan of Itaura Bujurg, Raibareli. Learned counsel for the petitioner has argued that the sole purpose of police verification is that whether the candidate is having good moral character and is involved in any criminal case of such a nature which can hold him to be involved in moral turpitude. The offices of the government department should not be held by the persons who can not have the confidence of the people. His character should be above board. At the same time, it is also to be seen that stereotype classifications are not made. For instance, if a person is involved in a scuffle which occurred due to sudden cycle accident on the road or is involved in some kind of "marpeet" during heated exchange of words on the spur of the moment. Definitely, these are instances which may result into an FIR being lodged and a case being conducted but eruption of scuffle on the spur of the moment will not necessarily mean that a candidate belongs to a group of criminals. It may also not necessarily mean that the petitioner does not have a good moral character.

16. In the world of today when job opportunities are shrinking, a young lad of twenty years can hardly be expected to go an extra mile to inform the authorities about a case which can get him rejected at the threshold. If a specific question is not asked he can not be expected to analyze the query by himself and prepare the answer which is prejudicial to his interest. Social and economic pressure on a young boy in today's society is a reality. The moral values which are otherwise vanishing can not be stretched beyond a limit. The virtues and values in a candidate should be decided on a practical apparatus. Realities of life can not be wished away. In the present case, when the petitioner was neither convicted nor fined nor bound down nor prosecuted nor debarred from appearing in any examination, his answer to clause 12 as "No" can be read as near truth. The Inspector incharge Police Station Unchahar as well as the Superintendent of Police of the District have verified his character as being good, the certificate of good moral character has been issued by the Village Pradhan. On inquiry no adverse material has come out against him nor any complaint was made to the police by any of the villagers.

17. On the basis of the arguments and the material on record, the Court is convinced that the answer "No" to the composite question put in Clause 12 of the "Verification Roll" does not amount to supply of false information or suppression of material facts as envisaged under Clause 3 of the said Roll.

18. The order of termination has been passed in very cursory and routine manner. The matter has not been seriously considered from all angles. There is lack of application of mind which can not be appreciated. It deserves to be struck down. It has also been informed that the petitioner was sent back home despite service of the interim order of this Court. This is a serious matter The act touches

the peripheries of contempt. At the moment no cognizance is being taken of this fact but it is expected of a senior officer of a disciplined force to show due respect to the orders of the Court.

19. Accordingly, the order dated 16.6.2010 resulting into the termination of the petitioner's services w.e.f. 16.7.20010 passed by Commandant 8th Battalion, as contained in Annexure1 to the writ petition, is set aside. The petitioner shall be reinstated in service from the date the other persons of his Batch have been assigned their job in the department.

The writ petition is allowed.

No order is passed as to costs.