
(2011) 07 AHC CK 0031

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 41906 of 2011

Satyendra Kumar Pandey

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 28-07-2011

Acts Referred:

Citation : (2011) 131 FLR 71

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajes Kumar, J.—By means of the present writ petition, the petitioner is challenging the order of Commandant, TRG Central Industrial Security Force, National Industrial Security Academy, Hyderabad, Andhra Pradesh (hereinafter referred to as the "Commandant"), by which the offer of appointment has been withdrawn.

2. Learned Assistant Solicitor General raised a preliminary objection that the writ petition is not maintainable at Allahabad as the impugned order has been passed by the Commandant, Hyderabad.

3. It appears that the petitioner has been offered appointment as SI/EXE in CISF vide letter No. E-37013/36 SI(E)/NISA/Admn.II/10/927, dated 9.11.2010. It appears that certain criminal proceedings have been initiated against the petitioner in the State of Uttar Pradesh.

4. Learned Counsel for the petitioner submitted that on account of criminal proceeding pending in the State of Uttar Pradesh without giving any opportunity of hearing, the impugned order has been passed by the Commandant. He submitted that the criminal proceeding has been finalized and the petitioner has been acquitted, therefore, partly cause of action arises in the State of Uttar Pradesh and, thus, the writ petition is maintainable at Allahabad.

5. In support of the contention, he relied upon the decision of this Court in the case of Jagveer Singh v. Union of India and others 2006 (62) ALR 902 and the decision of the Division Bench of this Court in the case of Namita Singh v. State of U.P. and others in Special Appeal No. 39 of 2009 decided on 5.2.2009.

6. Learned Assistant Solicitor General submitted that the order challenged in the present writ petition has been passed by the Commandant, Hyderabad. The reason for withdrawal of the offer of appointment may be criminal case pending against the petitioner in the State of Uttar Pradesh but since the impugned order has been passed by the Commandant, Hyderabad, the cause of action arises at Hyderabad and, therefore, this Court has no jurisdiction in the matter.

7. He placed reliance on the decisions of the Apex Court in the case of Additional General Manager/Human Resource Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde, Full Bench decision of this Court in the case of Rajendra Kumar Mishra v. Union of India and others, 2004 (4) E.S.C. (All.) 2313 Division Bench decision of this Court in the case of M/s. Deeptiman Logistics Pvt. Ltd. and another v. Union of India and others, 2010 (80) ALR 375 decision of the learned Single Judge in Civil Misc. Writ Petition No. 52735 of 2010, Smt. Manjesh v. Union of India and others, decided on 13.9.2010, another Division Bench decision in Civil Misc. Writ Petition No. 12628 of 2011, M/s. Agrasen Meal Works v. Union of India and others, decided on 15.3.2011 and Civil Misc. Writ Petition No. 340 of 2011, M/s. Agrasen Metal Works v. Union of India and others, decided on 8.3.2011.

8. I am of the view that the criminal case pending in the State of Uttar Pradesh may be a cause for passing the impugned order by the Commandant, Hyderabad but since the impugned order has been passed by the Commandant, Hyderabad, which is being challenged, therefore, the cause of action for filing the writ petition arise in Hyderabad. In view of the above, I am of the view that no cause of action has arisen partly or fully in the State of Uttar Pradesh, the writ petition is not maintainable at Allahabad.

9. In the case of Additional General Manager--Human Resource, Bharat Heavy Electricals Ltd. v. Suresh Ramkrishna Burde (supra), Suresh Ramkrishna Burde, claiming himself to be belonging to Halba Scheduled Tribe and after submitting a certificate to the said effect, got an appointment in Bharat Heavy Electricals Ltd., Hyderabad, as clerk on 31.5.1982. He was promoted as Assistant Grade II in the year 1987 and then as Assistant Grade I in the year 1994. A complaint was made that his caste certificate is false. The matter was referred for verification of the caste certificate to the District Collector and also to the Chairman, Scheduled Tribe Caste Certificate Scrutiny Committee. The Scrutiny Committee found the caste certificate false. He challenged the said order by filing Writ Petition No. 3229 of 1995 before the Bombay High Court, which was allowed and the matter was remanded back for fresh consideration. The Scrutiny Committee again examined the matter in accordance with the direction of the High Court and also got an enquiry conducted through its Police Vigilance Cell. The Scrutiny

Committee vide its report dated 29.8.2001 found that the respondent belonged to "Koshti" caste and he did not belong to Halba Scheduled Tribe. This order was again challenged by way of writ petition before the Bombay High Court. The writ petition was dismissed. Thereafter the services of the respondents were terminated vide order dated 16.7.2004. The respondent again filed writ petition challenging the said order dated 16.7.2004. The Apex Court held as follows:

Before parting with the case we would like to observe that the order invalidating the caste certificate had been passed by the Scrutiny Committee at Nagpur and, therefore, the earlier two writ petitions filed by the respondent were maintainable before the Nagpur Bench of the Bombay High Court. However, in the third and final writ petition the order under challenge was the order of termination of service which was passed by the appellant on 16.7.2004 at Hyderabad as the respondent was working with Bharat Heavy Electrical Ltd.'s Heavy Power Equipment Plant, Hyderabad. Therefore, the Nagpur Bench of the Bombay High Court had no jurisdiction to entertain the writ petition wherein challenge was raised to the said order.

10. The above view of the Supreme Court is squarely applicable to the present case and, support the objection of the learned Counsel for the respondent. Therefore, it is not necessary to deal with other cases.

The writ petition fails and is accordingly, dismissed.