

(2005) 05 AHC CK 0109

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4376 of 1997

Sher Singh

APPELLANT

Vs

The State of Uttar Pradesh and Company Commandant 46th
P.A.C. Battalion (Task Force)

RESPONDENT

Date of Decision : 04-05-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 5 AWC 5023 : (2005) 3 ESC 2049

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Viqar Ahmed Ansari, Mukesh Kumar, W.H. Khan, J.H. Khan and Mahipal Singh, for the Appellant; Kripa Shankar Singh and R.K. Saxena and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—The petitioner, Sher Singh, who was selected for training for the post of constable in PAC, as alleged by the petitioner, aggrieved by the action of the respondents in not permitting the petitioner to join the training on the ground that before entering into the process of selection for training, the petitioner had to fill in the form giving informations to which the petitioner has personal knowledge, but the petitioner gave wrong information regarding the query as to whether the petitioner had ever been involved in any criminal cases, which the petitioner had denied, approached this Court by means of present writ petition under Article 226 of the Constitution of India.

2. On a query, the respondents found that the petitioner was in fact involved in a criminal case and the petitioner has given incorrect information in the form of the affidavits because of that the petitioner was not found to be a fit person to allow him to join the training for the post constable in PAC. Along with the counter affidavit filed by Kiran Lal Shah, the respondents have annexed the copy of the affidavit filed by the petitioner, wherein in paragraph 4 it has been stated by the

petitioner that to his knowledge, no criminal case has been registered against the petitioner, nor the police has ever challenged the petitioner. The petitioner also stated in the said affidavit that no police investigation is pending against the petitioner. This information given by the petitioner on the affidavit was asked for pursuant to the Government Order No. 4694/II-B-327-1947 dated 28th April, 1958. The paragraph 3 of the affidavit filed by the respondents is relevant so far as the controversy in dispute is concerned. Thus, in the counter affidavit filed by the respondents, it has been stated that the petitioner has deliberately suppressed the material information regarding his involvement in the criminal case, which was pending at the time when the petitioner has applied for recruitment and also at the time when he was selected for the training.

3. Learned counsel appearing on behalf of the petitioner has relied upon two unreported decisions of learned single Judge of this Court passed in writ petition No. 1047 of 1999 (Rishi Pal and Ors. v. State of U.P. and Ors.), decided on 10th January, 2001; and writ petition No. 53713 of 1999 (Jitendra Singh v. state of U.P. and Ors.), decided on 18th May, 2001. Learned counsel for the petitioner further relied upon decision reported in (1997) 2 UPLBEC 1201 Qamrul Hoda v. Chief Security Commissioner, N.E. Railway, Gorakhpur and the decision reported in 2000 (1) ESC 688 (All.) Awadhesh Kumar Sharma v. Union of India and Ors.

4. From the facts and circumstances, referred to above, the reported and unreported decisions relied upon by learned counsel appearing on behalf of the petitioner are different than the facts of present case. In the present case the case set up by the respondents was that the petitioner has not been allowed to join the training because of the fact that he has submitted wrong information and suppressed the material fact, as he was supposed to declare correct information pursuant to the Government Order dated 28th April, 1958 copy whereof is annexed along with counter affidavit. The petitioner, in the present case, have not undergone the training and the defence was not that the petitioner has suppressed the material fact, which the petitioner was supposed to declare in view of the aforesaid Government Order. In the facts and circumstances of the case, since the Government Order lays down the policy of the government which says that in case any person is found to suppress, as is required to be given in the aforesaid Government Order, he was treated to be not correct person for recruitment or appointment.

5. In view of what has been stated above, I do not any force in this writ petition. It is, accordingly, dismissed. The interim order, if any, stands vacated. However, there will be no order as to costs.