
(2008) 04 RAJ CK 0094
In the Rajasthan High Court

Shiv Raj Singh

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-04-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 325, 336, 341

Citation : (2008) 04 RAJ CK 0094

Hon'ble Judges : Narayan Roy, C.J; Mohammad Rafiq, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the appellant.
2. This appeal is directed against the order dated 1.10.2007 passed by the learned Single Judge of this Court in S.B. Civil Writ Petition No. 2044/2007 whereby and whereunder the writ petition was dismissed.
3. The writ petitioner-appellant who had applied for appointment on the post of police constable pursuant to advertisement dated 14.6.2005 and corrigendum dated 18.6.2005 was selected for appointment on the post of police constable. However, during verification of his testimonials and enquiry held by the Superintendent of Police, it transpired that the writ petitioner-appellant was an accused for offences Sections 341, 323, 336 and 325 of the Indian Penal Code. It was further found that Column No. 17 of the application form was left blank where a candidate was required to fill up the same by saying as to whether he was involved in a criminal case. On account of involvement of the writ petitioner-appellant in a criminal case as referred to above and non-filling up of the Column No. 17 of the application form, he was found to be disqualified as he suppressed the material fact about his involvement in a criminal case of moral turpitude. His name accordingly, was de-listed from the merit list.
4. The writ petitioner being aggrieved by the aforesaid action of the State authorities, approached this Court in writ jurisdiction where it was contended

that since the criminal offence alleged was of petty nature, the writ petitioner could not fill up the Column No. 17 out of ignorance. The plea of the writ petitioner, however, was not accepted by the learned Single Judge of this Court and the writ application was dismissed holding that non-mentioning about the pendency of criminal charge in Column No. 17 which was in the nature of moral turpitude was fatal, and therefore, no interference was required.

5. Learned Counsel for the appellant submits that the criminal charge levelled against the appellant is of petty nature and the offence was committed on account of family feud, therefore, non-mentioning about pendency of the criminal case in Column No. 17 of the application form would not be of any consequence. It is further contended that the appellant was successful in the selection for the post of constable and when his name was included in the merit list, it would be too late for the authorities to disqualify him on the ground of pendency of a case of moral turpitude.

6. From the facts as brought on record, it would appear that the writ petitioner-appellant was made an accused in the criminal case on 8.1.2004 whereas charge-sheet was filed on 30.10.2004. He filled up the application form on 16.10.2005 pursuant to the advertisement issued in the month of June 2005. The facts, therefore, sufficiently reveal that the writ petitioner was in know of the criminal case, but intentionally he suppressed the same in the application form and left the Column No. 17 blank. The omission and commission committed by the writ petitioner-appellant, therefore, would amount to suppression of the material fact. The question that he was found successful in the physical test and other tests by the authorities would not wipe out the criminal charges levelled against the writ petitioner-appellant of which he was fully aware and he had appeared in the court and obtained bail.

7. The facts of this case appears to be identical to that of *Dharam Pal Singh and Ors. v. The State of Rajasthan and Ors.* 2000 (2) WLC (Raj.) 400. In the case of *Dharam Pal Singh and Ors.* (supra), the applicant had not filled up Column No. 17 saying as to whether he was involved in any criminal case of moral turpitude. A Full Bench of this Court held that suppression of material facts by not filling up Column No. 17 of the application form would amount to suppression of the material facts pertaining to pendency of a criminal case and thus observed:

13. Column No. 17 of the application form make it mandatory for the applicant to furnish information in relation to his involvement in criminal case. In the light of Rule 15 of the Rules and Circular dated 29.4.1995, it is clear that in relation to recruitment as constable in the Police Department, which is a disciplined force, in order to judge suitability and desirability of a candidate for recruitment, such information is vital. From the information so furnished, it would be possible for the Appointing Authority to judge the suitability of a candidate. If the material information specifically required in column No. 17 of the form is not furnished or wrongly furnished to mislead the authorities, that would only show the mental make up or frame of mind of the candidate, who in case is appointed, will have

onerous responsibilities and duties to perform in the public interest. The nature of duties, a police constable has to perform, include maintenance of law and order, conduct of investigations, protection of life and property of citizens etc. Such duties can be entrusted safely to disciplined and honest persons. A person who does not furnish the material information which if furnished goes against him, exhibits his dishonest intention or his nature and mental condition. The Appointing Authority could trust such a person to entrust onerous and responsible duties that too in the police department. Having regard to the plain language of Rule 15 and the consequences of suppression of information adverse to candidate comes within the purview of moral turpitude, it cannot be said that information sought in Column No. 17 of the application form is not material.

14. In this view, suppression of material information or furnishing it wrongly in column No. 17 of the form is a vital factor, which goes against the candidate. Rule 15 of the Rules empowers the authorities to deny appointment or debar such candidate for admission to any examination or appearance at any interview either permanently or for specified period. A careful reading of Rule 15 shows that suppressing material information is itself sufficient to deny employment without anything more; in other words, it is not required that suppression of material should be deliberate or wilful. Further, by the combined reading of Rules 13, 15 and the Circular dated 29.4.1995, there can be no doubt that appointment could be denied on the ground of suppression of material information, which was otherwise required for judging the suitability and desirability of a candidate for direct recruitment in the police department. The information relating to involvement of a candidate in criminal case is specifically sought in column No. 17 of the application form. If it is not furnished, the candidate takes the consequences of denial of appointment to him.

8. The learned Counsel for the appellant, however, placed reliance on State of Haryana and Others Vs. Dinesh Kumar, In the case of State of Haryana and Ors. (supra), the facts were not identical. In that case, the question had arisen for consideration as to whether non-filling up of the columns of the forms like 13(A): Have you ever been arrested? and; 14: Have you ever been convicted by the Court of any offence? would be fatal for disqualifying the candidate for appointment. In the Columns No. 13A and 14, the queries were, have you ever been arrested and have you ever been convicted by the Court of any offence. The Apex Court however, considering the fact of the case that the criminal case ended in acquittal held that non-filling up of the columns aforesaid would not be fatal. In the case at hand, Column No. 17 was not filled up especially when the writ petitioner-appellant was aware of his involvement in a criminal case and the case was at trial stage.

9. The decision rendered by the Apex Court in the case of State of Haryana and Ors. (supra), therefore, would not be applicable in the facts and circumstances of this case.

10. The ratio laid down by a Full Bench of this Court in the case of Dharam Pal

Singh (supra), however, covers the field as the facts are identical. It is an admitted position that till date the trial has not been concluded and the writ petitioner is still facing the criminal charge.

11. In the facts and circumstances of the case as referred to above and in view of the legal propositions noticed above, in our view, no interference would be required with the order impugned.

12. In the result, this appeal is dismissed.