

(2020) 01 RAJ CK 0345

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 1079, 1525 Of 2019 In Civil Writ
Petition No. 890, 962 Of 2019

State Of Rajasthan And Ors

APPELLANT

Vs

Rajesh Kumar Meena And Ors

RESPONDENT

Date of Decision : 06-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 325, 341

Citation : (2020) 01 RAJ CK 0345

Hon'ble Judges : Sabina, J; Narendra Singh Dhaddha, J

Bench : Division Bench

Advocate : Harshal Tholia, Dr. Vibhuti Bhushan Sharma, Vigyan Shah, Rajaram Choudhary, Brijesh Bhardwaj

Final Decision : Dismissed

Judgement

Vide this judgment abovementioned two appeals would be disposed of as they have arisen out of common order dated 12.03.2019 passed by the learned Single Judge, whereby, writ petitions filed by the respondents were allowed.

Learned State counsel has submitted that the learned Single Judge has erred in allowing the writ petitions filed by the respondents. In-fact, the respondents were involved in a criminal case and had failed to disclose the said fact in the applications filed by them for appointment to the post of Constable. The respondents were involved in criminal case relating to offences under Sections 341, 323, 325 and 34 of Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and had not been honourably acquitted by the court. The offences involved crime of violence and moral turpitude and as per Memorandum dated 29.04.1995, writ petitions filed by the respondents were liable to be dismissed.

Learned counsel for the respondents have opposed the appeals and have submitted that in view of Circular dated 28.03.2017, it was inter alia, provided that the candidate who had been acquitted on the basis of compromise with the

complainant or even an accused who was acquitted on the basis of benefit of doubt, was entitled to appointment to the post of Constable, if so selected. Learned counsel have further submitted that the offences qua which FIRs were registered against the respondents could not be termed as offences involving moral turpitude.

The respondents had applied for the post of Constable in terms of Advertisement dated 25.05.2018. However, prior to the commencement of selection process, FIRs were registered against the respondents qua offences punishable under Sections 341, 323, 325 and 34 IPC. During trial, compromise was affected between the complainant and the accused and the respondent, Hanuman Gurjar was acquitted on 06.07.2017. So far as, respondent Rajesh Kumar Meena is concerned, he was acquitted prior to the completion of selection process in pursuance to the Advertisement dated 25.05.2018. Admittedly, the respondents were selected for the post of Constable, however, they were not issued appointment letters in view of Circular dated 28.03.2017.

We have carefully gone through the terms of Circular dated 28.03.2017 issued by the Director General of Police and reading of the said Circular reveals that the respondents could not have been denied appointment to post of Constable. Circular dated 28.03.2017 clearly provides that those, who have been acquitted in the criminal cases founded on petty offences, inter alia, on the ground of benefit of doubt or compromise, would be entitled to be appointed as Constables. A perusal of Circular dated 28.03.2017 (Annexure-7 attached with Writ Petition No. 962/2019) further reveals that the fact of pendency of criminal case could be disclosed by the candidate at the time of filling up of application form or character verification form or both. Admittedly, in the present case, the respondents had submitted necessary information at the time of filling up of character verification form.

Arguments raised by learned State counsel are without any force in view of Circular dated 28.03.2017 (Annexure-7 attached with Writ Petition No. 962/2019). Learned Single by rightly placing reliance on Circular dated 28.03.2017 had allowed the writ petitions filed by the respondents. Circular dated 28.03.2017 was issued after considering all the previous circulars including Circular dated 29.04.1995 relied upon by learned State counsel.

No ground for interference in the impugned order is made out.

Dismissed.