

(2014) 04 RAJ CK 0099
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4781/2012

Vijay Prasad Sharma

APPELLANT

Vs

Jodhpur Vidhyut Vitran Nigam Ltd.

RESPONDENT

Date of Decision : 03-04-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 498A, 498-A
Probation of Offenders Act, 1958 — Section 12, 3, 4

Citation : (2014) 3 WLN 450

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Advocate : Nupur Bhati and Kailash Jangid, Advocate for the Appellant; G.R. Gora, Advocate for the Respondent

Final Decision : Allowed

Judgement

Gopal Krishan Vyas, J.—Heard learned counsel for the parties. In this writ petition, petitioner is claiming appointment on compassionate ground because father of petitioner late Shri Radhey Shyam Sharma died while working on the post of SSSIII in the respondent-department.

2. After death of petitioner's father an application was moved by the petitioner for providing appointment on compassionate ground but the application of the petitioner to provide appointment on compassionate ground was rejected vide communication Dt. 24.04.2012 (Annex. 3) on the ground that in the criminal case registered against the petitioner under Sec. 498-A and 406 IPC, he was held guilty but granted the benefit of probation and later on a consent divorce decree was passed. On 19.02.2014 after hearing both the parties although in criminal case after holding petitioner guilty, the petitioner was acquitted while granting benefit under the Probation of Offenders Act and consent divorce decree has been passed but in the totality of circumstances, this Court feels that if petitioner is desirous to get appointment on compassionate ground then some relief should be given to the lady to whom the petitioner gave divorce and held

guilty for offence under Sec. 498A IPC upon complaint made by her. At this juncture, learned counsel for the petitioner submits that petitioner is ready to pay Rs. 3 lacs to his ex-wife so as to seek appointment.

3. In view of above, this Court feels that opportunity can be given for above prayer, therefore with expectation that petitioner will submit receipt/photostat copy of FD of Rs. 3 lacs executed in favour of ex-wife, it was ordered that matter may be listed on 19.03.2014.

4. Learned counsel for the petitioner submits that in pursuance of aforesaid order, a demand draft of Rs. 3 lacs Dt. 11.03.2014 bearing No. 005769 has already been given to the ex-wife Latika of the petitioner and to prove the said fact, a receipt given by Latika on 11.03.2014 is placed on record.

5. Learned counsel for the petitioner submits that in the event of granting benefit of Probation under Sec. 12 of Probation of Offenders Act in a criminal case denial of appointment to the petitioner on the ground that he was held guilty in a criminal case and granted benefit of probation will not come in the way of providing appointment, therefore, respondents may be directed to provide appointment to the petitioner forthwith.

6. After hearing learned counsel for the parties, I have perused the Section 12 of Probation of Offenders Act which reads as under:- "12. Removal of disqualification attaching to conviction-Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release under Sec. 4 is subsequently sentenced for the original offence."

In view of above provision and upon the fact that the petitioner has paid 3 lacs rupees to ex-wife Latika so also granted benefit of Probation of Offenders Act in a criminal case, the respondents cannot deny appointment to the petitioner on compassionate ground, therefore, this writ petition is allowed and the communication Dt. 24.04.2012 is hereby quashed and respondents are directed to consider the case of petitioner for providing appointment on compassionate ground ignoring the fact of criminal case, in which, petitioner was granted benefit of probation within a period of one month from the date of receiving certified copy of this order.