

(2001) 01 RAJ CK 0025

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 597 of 2000 and Ors. Appeals

Virendra Singh

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 31-01-2001

Acts Referred:

Arms Act, 1959 — Section 25, 3
Penal Code, 1860 (IPC) — Section 147, 307, 323, 324, 341
Rajasthan Police Subordinate Service Rules, 1989 — Rule 13, 15

Citation : (2001) 2 RLW 754 : (2001) 4 WLN 72

Hon'ble Judges : A.R. Lakshmanan, C.J.; Asok Parihar, J

Bench : Division Bench

Advocate : Rajendra Soni, Ashvin Garg, S.P. Sharma and N.A. Naqwi, for the Appellant; Ajay Purohit, Virendra Lodha and M.R. Naredi, for the Respondent

Judgement

Lakshmanan, C.J.

(1) Heard learned counsel for the parties.

(2). All these appeals except Special Appeal No. 579/2000 were filed against the common order passed by the learned Single Judge (Mr. Justice J.C. Verma), dismissing the writ petitions filed by the appellants on the ground that the appellants-petitioners had not disclosed the correct facts in the application forms in the column provided for it of their being involved as an accused. The learned Judge dismissed the writ petitions on the ground that a deliberate attempt had been made by the appellant-petitioners to conceal the facts and that they have no right to conceal the fact of their involvement in any criminal case if so required by the recruiting agency.

Virendra Singh vs. State & Others (D.B. Civil Special Appeal (Writ) No. 597 of 2000):

(3). This appeal was filed against the order passed in S.B. Civil Writ Petition No. 1744/97. In this case, the appellant in response to an advertisement applied for

recruitment to the post of Constable in Police force at Jaipur, He was declared successful. His papers were sent for police verification. On verification, it was found that the appellant has concealed the fact by mis-stating in Column 17 of the application form of his involvement in any criminal case or having been so arrested. It was found that the FIR No. 232/92 in relation to the offences punishable u/S. 307, 323 1PC read with Sec, 3/25 of the Arms Act had been registered and was under investigation. A charge-sheet was also submitted against the appellant along with other accused in the Court of MJM, Kotputli, It appears that pursuant to a compromise having been taken place between the complainant and accused persons and the appellant was acquitted in regard to offence u/S, 323 1PC. The appellant was not offered the appointment on the ground that the appellant had concealed the fact and he had given application form with wrong information. Against Column No. 17 of the Column No. 17, the appellant had categorically stated "No" that is that he was never involved in any criminal case before filing of the application form. Since no appointment was made, the appellant filed the writ petition to declare that he is fit for appointment on the post of Constable,

Dilawar Khan vs. State and Others (D.B- Civil Special Appeal No. 794/2000):

(4). This appeal was filed by the appellant against the order passed in S.B. Civil Writ Petition No. 2839/99. In this case, the appellant applied pursuant to an advertisement for the post of Constable in the Police department. In this case also, the appellant had stated in Column No. 17 of the form that he had not been involved in any criminal case and instead of giving the details, he had written "NIL" in all the columns. He had suppressed the fact that a criminal case No. 170, dated 13.12.1994 u/S. 341 and 323 IPC was pending against him and challan was filed in the court of Additional Munsiff and Judicial Magistrate, Sriganganagar, which was finally decided on 17.12.1994. Since the appellant had not fulfilled the conditions as required under rule 13 of the Rajasthan Police Subordinate Service Rules, 1989, a Memo was issued to him on 29.4.1995 and on verification it was found that because of the reason that the appellant was involved in a criminal case at the lime of filling of the form and had given a wrong information and suppressed the facts, he was rightly removed vide order dated 31.3.1998 from the select list which was challenged by him in the writ petition.

Veer Singh vs. Stale of Rajasthan and Others (D.B. Special Appeal No. 726/99):

(5). This appeal was filed against the order passed in S.B. Civil Writ Petition No. 1805/98. In this case also, the appellant was declared successful out of the category of Scheduled Tribe candidates as per order dated 20.12.97, The appellant was declared successful. It is the contention of the appellant that junior persons to the appellant have been selected and offered appointment, but the appointment had been ignored. According to the appellant, he had already been acquitted in the case due to compromise between the parties on 18.1,1997. It is not in dispute that in the application form, against Column No. 17, the appellant

has wrongly filled up the column and had deliberately concealed the fact by saying that he was not involved in any criminal case and had answered the said column as ""NIL". It was argued by the State that the appellant was selected subjcl to verification of antecedents made by the local Police and for the reason he was involved in criminal case No. 25/98 and lateron exonerated due to compromise between the parties and therefore, he was rightly denied appointment. The learned Single Judge held that it was not desirable to appoint a person of such record as a Constable to the disciplined force.

Rajendra vs. State of Rajasthan and Others (D.B. Civil Special Appeal No. 128/2000):

(6). This appeal was field against the order passed in S.B. Civil Writ Petition No. 1849/1998. In this case also, the appellant was asked to fill up the verification form which contains column regarding criminal case pending against the appellant. It is stated by the appellant that because of some family dispute he was involved in a case u/S. 323, 324 & 341 IPC in December, 1996 which ended into compromise on 17.12.1997, and therefore, against the said column, the appellant had mentioned that no case is pending against him. His candidature was rejected by the Department and he was not allowed to join his duties. The appellant submitted the order of the Judicial Magistrate dated, 31.12.1998, by which the appellant was acquitted of the charge framed against him. A reply was filed by the State, wherein it is stated that in view of suppression of material information his form was rejected, he was declared unsuitable and was informed on 1.5.1998 vide Annex. R/1 to the effect that his service stands terminated.

Ahsan Ali vs. Stale of Rajasthan and Others (D.B, Civil Speical Appeal No. 579/2000):

(7). This appeal was filed against the order passed by Hon"ble Dr. Justice B.S. Chauhan, in S.B. Civil Writ Petition No. 36/2000, which was rejected on the ground that the appellant had concealed material facts while filling of the application form that he had never been involved in any criminal case. The appellant in this case does not dispute his involvement in the criminal case, rather it was stated that he was involved in a Criminal Case u/S. 323 and 147 I.P.C. and during trial the offence u/S. 323 was compounded and the appellant stood convicted for the offence u/S. 147 1PC vide judgment and order dated 20.10.97, the appellant had been given the benefit of Probation of Offenders Act, 1958. His conviction u/S. 147 1PC is washed off, therefore, the appellant cannot be held guilt of concealing any material fact to make him disentitle for the post in question. The learned Judge, on consideration of the entire material passed the detailed order and dismissed the writ petition accordingly.

(8). A reply was filed by the State in the Writ Petition contending that the appellant had concealed the material fact/evidence in relation to the pendency of criminal case registered at the respective Police Station in relation to the offence punishable under various sections of IPC etc. The petitioner is not entitled for

any appointment. It is stated that during the course of trial, on 8.2.1997, a compromise had taken place and the accused persons were acquitted for the offences. The answering respondents placed on record the photostat copies of the application forms in all the cases submitted by the appellants along with verification form.

(9). It is argued on behalf of the respective appellants that the suppression regarding pendency of criminal cases is merely as bonafide error on the part of the appellants and this alleged offence does not constitute any moral turpitude and, therefore, it cannot be said that the appellants are disqualified under the Rules and the respondents have deprived the appellants by deleting their names from the selection list of the Constables for appointment and such action of the respondents is not only arbitrary but illegal and is liable to be interfered with. It is further argued that since the appellants have been acquitted for the alleged offence, it does not disqualify them to be appointed as Constables.

(10). Mr. Rajendra Soni, learned counsel for the appellants, at the time of hearing cited the following judgments in support of his contentions:

- (1) Commissioner of Police, Delhi vs. Dhaval Singh (1),
- (2) K.L. Narasimha Rao vs. State of U.P. (2)
- (3) Gopi Lal vs. State of Rajasthan and Another (3).
- (4) Brijendra Singh Meena vs. State of Rajasthan & Ors (4)
- (5) Banshidhar Saini vs. State of Rajasthan & Another (5)
- (6) T. C- Jain vs. State of Rajasthan (6)

(11). Mr. S.P. Sharma cited the case of Commissioner of Police, Delhi and another vs. Dhaval Singh (supra), in support of his contention.

(12). In our opinion, the judgments cited by Mr. Rajendra Soni and Mr. S.P. Sharma are not only distinguishable on facts, but on law. The law is well settled on the questions at issue. In this case, the appellants are guilty of intentionally mentioning wrong facts in the application forms stating that they were not involved in any criminal case, hence, the appellants are guilty of "suppression very and suggestio falsi" and, therefore, they were rightly denied appointment on the post of constables when on a police verification it was highlighted. The Police force is a disciplined force and the persons having antecedents of being involved in a criminal case cannot be suitable for the post specially when they are guilty of "suppression very and suggestio falsi". The act of the respondents, in our opinion is perfectly legal, valid and justified as per the provisions of rules of 1989, which does not warrant any interference. It is not in dispute that the appellants were provisionally selected subject to verification of character and antecedents by the local Police and on verification it was found by the Police authorities that the appellants were involved in criminal cases under various sections, challans were filed in the courts, which were decided on the ground of compromise between

the parties. Thus, the appellants are guilty of mentioning wrong facts in their application forms as well as in their verification roll. Thus, they were rightly denied appointment.

(13). It is argued by the learned counsel for the appellants that the appellants were discharged or acquitted by the Court in criminal cases and, therefore, they cannot be denied appointment. In our opinion, the discharge or acquittal at a later date has nothing to do with the question at issue in this case. What would be relevant is the conduct or character of the candidate to be appointed to a service on the date of the application. Considerations relevant to the case are the character and antecedents of the candidates. The verification of character and antecedents is one of the important criteria for testing whether the selected candidate is suitable to a post under the State; though, the candidates were physically found fit, passed written test and interview and were provisionally selected, they were denied appointment on account of their antecedents and that the appointing authority found it undesirable to appoint persons of such record as a Constable in the disciplined force.

(14). In the present case, the action of the answering respondents, in our considered view, is fully justified and the appellants cannot take protection of any provisions of law or the rules. As rightly pointed out by the learned counsel for the respondents that the main questions involved in these cases are about the facts, whether the petitioner-appellants were previously involved in any criminal action or offence. In "order to ascertain the correct facts, a column is provided in the application form. In these cases, the appellants have concealed the pendency of the criminal case and, therefore, they are disentitled for getting employment in the department.

(15). Mr. S.P. Sharma also submitted that the appellant, Rajendra, in Special Appeal No. 128/2000, has not suppressed any material fact in Column No. 17, but has put only a cross "X" mark, which will not amount to suppression of any material fact in any event. We are unable to accept the said contention. In this case, the appellant has not fulfilled his duty of filling the column correctly and kept the authority concerned in dark, as to whether the compliance of Rule 13 has been made or not. Hence, this contention has no merit.

(16). This Court in a recent Full Bench decision reported in *Dharam Pal Singh and 4 Others vs. The State of Rajasthan and Other* (7), held as follows:

"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."

(17). The Full Bench has also followed the judgment of the Supreme Court in the case of Delhi Administration vs. Sushil Kumar (8). The Full Bench has also referred to various decisions of this Court and of the other High Courts and answered the questions referred for their opinion as follows:

1. That a candidate was prosecuted or subjected to investigation on a criminal charge is a material fact, suppression of which, would entitle an employer to deny employment to a candidate on that ground,
2. That ultimate acquittal of a candidate, who was prosecuted on a criminal charge, would not condone or wash out the consequences of suppression of the fact that he was prosecuted.
3. That suppression of material fact would be itself disentitles a candidate from being appointed in service."

(18). In view of the law laid down by this Court in Dharam Pal Singh's case (supra), we find no merit in these appeals and they are accordingly dismissed.