



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No. 1734/2024

Nand Kishore Meena

----Petitioner

Versus

General Manager, Disciplinary Officer, Oriental Bank Of
Commerce, Anand Bhawan, 2nd Floor, Sansar Chand Road,
Jaipur.

----Respondent



For Petitioner(s) : Mr. Rishi Raj Maheshwari for
Mr. Himanshu Jain

HON'BLE MR. JUSTICE SAMEER JAIN

Order

28/02/2024

1. The instant petition is filed under Article 227 of the
Constitution of India, with the following prayers:-

*"i. By issuing appropriate writ order or direction, the
order dated 03.07.2006 may be quashed along with
other consequential orders and order/judgment dated
04.10.2023 may be quashed and set aside, and the
claim petition may be allowed as prayed for;*

*ii. By issuing appropriate writ order or direction, the
respondents may be directed to reinstate the petitioner
on the post of Cleaner with the back wages and
furthermore, to accord the reinstatement with all
consequential benefits.*

*iii. By issuing appropriate writ order or direction, the
respondents may be directed to release the back wages
of the petitioner along with the interest of 12% p.a. to
the petitioner.*

*iv. Any other order or direction as this Hon'ble High
Court may deem fair, just and proper in the facts and
circumstances of the case may be passed in favour of
the Petitioner."*

2. It is submitted by learned counsel for the petitioner
that the petitioner applied for the post of Cleaner-Class IV. While



filling the application form, the petitioner vide Annexure-3, in terms of Paragraph 19, categorically stated that the petitioner had never been arrested/prosecuted/kept under detention and/or convicted by any Court of law, for any offense involving moral turpitude. In this regard, learned counsel for the petitioner submitted that previously, while the petitioner had been arrested and/or prosecuted against, the petitioner exercised the option to mark 'no', solely on account of the fact that the petitioner had been acquitted for the concerned offenses, on account of his admission and thereafter, given the benefit under the Probation of Offenders Act, 1958. In this background, on account of the said concealment, the respondents vide order dated 03.07.2006, terminated the services of the petitioner. Being aggrieved, the petitioner approached the Tribunal. However, the learned Tribunal, vide order impugned dated 04.10.2023, dismissed the appeal so filed, without considering the facts of the case and also, the law applicable. To contest the findings arrived at by the learned Tribunal, learned counsel contended that keeping in mind the policies of social reform, the concealment, if not material, should be ignored and disproportionate punishment so awarded, ought to be set aside. In this regard, reliance was placed upon the dictum of the Hon'ble Apex Court as enunciated in **2022 Live Law (SC) 300** titled as **Umesh Chandra Yadav Vs. The Inspector General & Chief Security Commissioner, R.P.F., Northern Railway, New Delhi & Ors.** Reliance was also placed upon the judgment passed by the Hon'ble Apex Court in **State of West Bengal & Ors. Vs. Mitul Kumar Jana: Civil Appeal**



No.8510/2011 and Ravindra Kumar Vs. State of U.P. & Ors.:Civil Appeal No.5902/2012.

3. Heard learned counsel for the petitioner, scanned the record of the petition and perused through the judgments cited at Bar.

4. It is trite law that there is a limited scope of interference with a well-reasoned order while exercising jurisdiction under Article 227 of the Constitution of India.

5. Prior to penning down observations on merits, this Court deems it appropriate to take note of the option exercised by the petitioner and/or entry filled by the petitioner, whilst filling the application form. The relevant extract of Annexure-3 i.e. petitioners application form, is reproduced herein-under:-

"(क) क्या आपकी किसी न्यायालय द्वारा नैतिक भ्रष्टाचार के अपराध में कभी गिरफ्तार किया गया है, नजरबन्द अथवा परिबद्ध/जुर्माना किया गया है, दोषी ठहराया गया है ? यदि हां तो विवरण दें। नहीं

Have you ever been arrested, prosecuted, kept under detention or bound down fined, convicted by a court of law for any offence involving moral turpitude? If yes, give details.

(ख) क्या आप पर किसी संस्था द्वारा उसकी परीक्षा में बैठने पर प्रतिबन्ध लगाया गया है/अयोग्य घोषित किया गया है, किसी विश्वविद्यालय या किसी अन्य शैक्षिक प्राधिकरण/संस्था द्वारा कभी निकाले गये हैं ? यदि हां तो विवरण दें। नहीं

Have you ever been debarred/disqualified by any institution from appearing at the examination, rusticated by any university or any other educational authority/institution? If yes, given details.

(ग) क्या किसी अदालत में आपके विरुद्ध नैतिक भ्रष्टाचार का कोई मुकदमा, मामला विचाराधीन है, यदि है तो विवरण दें। नहीं

In any case pending against you in any court of law involving moral turpitude? If yes, give details.

(घ) इस सत्यापन प्रपत्र को भरते समय क्या आपके विरुद्ध किसी विश्वविद्यालय अथवा किसी अन्य शैक्षिक संस्था/प्राधिकरण में कोई मामला





विचाराधीन है ? यदि हां तो विवरण दें।

नहीं

In any case pending against you in any University or any other educational authority/Institution at the time of filling up this attestation form ? If you give details.



6. Furthermore, the relevant extract of the order impugned dated 04.10.2023, is reproduced herein-under as well:-

“इस प्रकार उपरोक्त विश्लेषण व विवेचन से यह प्रकट हो रहा है कि प्रार्थी ने चोरी के प्रकरण में स्वेच्छा से अपना जुर्म स्वीकार किया है और न्यायालय द्वारा उसे दोषी घोषित किया जाकर परिवीक्षा का लाभ दिया गया है लेकिन प्रार्थी ने उक्त तथ्यों को अपने रोजगार प्राप्त करने हेतु प्रस्तुत प्रार्थना पत्र के बिन्दु सं. 19 (क्या आपको किसी न्यायालय द्वारा नैतिक, भ्रष्टाचार के आरोप में कभी गिरफ्तार किया गया है, नजरबंद अथवा परिबद्ध/जुर्माना किया गया है, दोषी ठहराया गया है यदि हाँ तो विवरण दे) में “नहीं” भरकर मांगी गई जानकारी को जानबूझकर मिथ्या कथन करते हुए दर्शाया गया है ताकि बैंक में रोजगार प्राप्त हो सके जिसका की वह पात्र नहीं था। अप्रार्थी नियोजक बैंक भारत सरकार का उपक्रम है जहां पर आमजन के धन व धरोहर का रख-रखाव व लेन-देन होता है, ऐसे उपक्रमों में कार्य करने वाले कर्मचारी का सदचरित्र, ईमानदार व विश्वसनीय होना अति आवश्यक है लेकिन प्रार्थी ने तथ्यों को छुपाकर रोजगार प्राप्त किया है।

नियोजक पक्ष द्वारा पत्रावली जो साक्ष्य पेश की गई है वह अखण्डित रही है ऐसी स्थिति में जांच अधिकारी द्वारा उक्त आरोप के संबंध में जो निष्कर्ष दिया है वह युक्तियुक्त एवं उचित है और उनके निष्कर्ष से यह न्यायालय भी सहमत है। तदुपरान्त सक्षम प्राधिकारी उप महाप्रबंधक (अनुशासनिक प्राधिकारी) द्वारा प्रार्थी के कृत्य के लिए उसे दोषी पाये जाने का निष्कर्ष निकालकर उसके दुराचरण के कृत्य को देखते हुए बैंक सेवा से तत्काल प्रभाव से बर्खास्त करने का जो आदेश दि. 03.07.2006 को पारित किया है वह किसी प्रकार से अननुपातिक (Disproportionate) नहीं है बल्कि पूर्णतया उचित एवं वैध है और उसमें न्यायालय की राय में किसी भी प्रकार से हस्तक्षेप किया जाना न्यायोचित नहीं है और प्रार्थी किसी अनुतोष को प्राप्त करने का अधिकारी घोषित होने योग्य नहीं है तथा निर्देश/रेफ्रेन्स इसी अनुरूप उत्तरित होने योग्य है।”

7. Upon a perusal of the record, the following material facts have emerged, namely:-

7.1. That vide the application form issued by the respondents, a specific query was raised before the applicants, regarding their



criminal history, more particularly, with regards to their previous arrest/prosecution/detention and/or conviction for an offense involving moral turpitude.

7.2. That the petitioner, vide Annexure-3, in terms of Paragraph 19, categorically exercised the option of stating 'no', when posed with the aforesaid query.

7.3. That the said option was exercised by the petitioner, despite having due knowledge regarding his previous prosecution wherein the petitioner was acquitted on account of his own admission in the Year 2001. Therefore, despite having due knowledge, established by his own admission, the petitioner concealed material information qua previous prosecution, in order to secure employment with the respondents. In essence, despite possessing due knowledge, when posed with a specific query, the petitioner concealed material information, for securing employment on the basis of incorrect particulars.

7.4. That recruitment on the subject post of Cleaner-Class IV is to be administered by the requirements/conditions of the respondent-employer, which sought certain information regarding the applicants criminal history, regardless of their acquittal or conviction. The ascertainment of criteria for administering recruitment, fell purely within the domain and discretion of the respondent-employer.

8. In this background, it is noted that when dealing with matters of concealment, the Courts ought to juxtapose the nature of suppression/concealment on part of the applicant with the nature and/or terms of the recruitment. The domain to





decide what information is material for assessing the candidature of the applicants, is purely of the respondent-employer.

9. The judgments relied upon by the learned counsel for the petitioner are distinguishable for the reason, that even the Hon'ble Apex Court in **Avtar Singh Vs. Union of India** reported in **(2016) 8 SCC 471** has categorically held that the applicants ought to make a truthful declaration with regards to a concluded criminal case, when said information is sought, whilst seeking employment. The subsequent decision of the employer to appoint or not appoint, could only be taken pursuant to and/or on the basis of the truthful declaration at the end of the applicant, regardless of the factum of acquittal.

10. Even otherwise, it is noted that in the opinion of this Court, the learned Tribunal has passed a well-reasoned speaking order and after consideration of material facts, arrived at a logical conclusion. This Court is in complete agreement with the reasoning adopted by the learned Tribunal. No palpable error or perversity has crept in the order impugned, warranting interference under Article 227 of the Constitution of India.

11. As a result, in light of the observations made hereinabove, the instant petition is dismissed. Pending application, if any, also stand disposed of.

(SAMEER JAIN),J

JKP/56

