

2022 LiveLaw (SC) 339

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

HEMANT GUPTA; V. RAMASUBRAMANIAN, JJ.

31st MARCH, 2022

CIVIL APPEAL NO.2599 OF 2022 (@ SLP(C) No.30505/2013)

GOVERNMENT OF NCT OF DELHI & ORS. *VERSUS* BHEEM SINGH MEENA

Service Law - Suppression of information about criminal case - This Court has held that giving of a wrong information disentitles the candidate for appointment - An employee desirous of holding civil post has to act with utmost good faith and truthfulness. Truthfulness cannot be made causality by an aspirant much more for a candidate aspiring to be a teacher. (Paras 10, 11 & 12)

(Arising out of impugned final judgment and order dated 21-12-2012 in WPC No. 7325/2010 passed by the High Court of Delhi at New Delhi)

For Petitioner(s) Ms. Madhavi Goradia Divan, ASG (N.P.) Ms. Alka Agarwal, Adv. Mr. Nachiketa Joshi, Adv. Ms. Reena Pandey, Adv. Mr. Durga Dutt, Adv. Ms. Nidhi Khanna, Adv. Mr. Rajeev Ranjan, Adv. Mr. Ayush Puri, Adv. Mr. B. V. Balaram Das, AOR Mr. Gurmeet Singh Makker, Adv.

For Respondent(s) Ms. Asha Jain Madan, AOR Mr. Mukesh Jain, Adv.

ORDER

Leave granted.

2. The challenge in the present appeal is to an order dated 21.12.2012 passed by the High Court of Delhi whereby the order of the Central Administrative Tribunal, Principal Bench, Delhi dated 19.11.2009 and the order in review dated 10.03.2010 were set aside.

3. The respondent was offered the post of trained graduate teacher of mathematics after the test conducted by Delhi Subordinate Services Selection Board on 17.11.1999. The respondent joined on 08.12.1999. After joining, an attestation form was given for verification of antecedents. Such attestation form was filled up on 13.12.1999. In such attestation form, he has answered the question 'have you ever been prosecuted' in negative. The respondent again filled up the antecedent form on 24.12.2005. The respondent again denied that he was never prosecuted.

4. However, during verification, it was found that a case under Section 499/93, 147, 332, 353, 427 & and 149 IPC was registered. A charge-sheet was filed in the Court of Chief Judicial Magistrate Karauli, Rajasthan on 30.04.1994. The respondent was served a charge memo on 21.06.2006 calling upon the respondent to explain why he had concealed the fact regarding the case registered against him and of the charge-sheet dated 30.04.1994.

5. In reply to the charge-memo, the respondent stated that he forgot about the incident after acquittal and the column was filled up by oversight and that he was residing in Delhi since July, 1996 and had no idea about the status of the case after 1996. An order of removal from service was passed on 19.06.2008 after considering the reply filed. He filed an appeal against the order of removal which was dismissed on 01.06.2009.

6. Such order of removal was challenged by the respondent before the Central Administrative Tribunal by an application under Section 19 of the Administrative Tribunals Act, 1985. Such application was dismissed but the High Court allowed the writ petition filed against the order passed by the Central Administrative Tribunal.

7. Learned counsel for the appellants refers to a three Judge Bench judgment of this Court reported as **(2016) 8 SCC 471**, titled as '**Avtar Singh Vs. Union of India & Ors.**' wherein this Court considered the question of suppression of information or submitting false information in the verification form as to the question of having been criminally prosecuted, arrested or as to pendency of a criminal case. The whole idea of verification of character and antecedents is that the person suitable for the post in question is appointed. It is one of the important criteria which is necessary to be fulfilled before appointment is made. An incumbent should not have antecedents of such a nature which may adjudge him unsuitable for the post. This Court in Avtar Singh held as under:-

“38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus:

38.1 Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.....”

8. The learned counsel for appellants also relied upon recent judgment of this Court reported as **(2021) 10 SCC 136**, titled as '**Rajasthan Rajya Vidyut Prasaran Nigam Limited & Anr. Vs. Anil Kanwariya**' wherein this Court in para 14 held as under:

“14. The issue/question may be considered from another angle, from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment, i.e., while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that

an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right.”

9. Learned counsel for the respondent relies upon an order passed by this Court in a judgment reported as **(1997) 10 SCC 538**, titled as ‘**Collector of Customs, Calcutta Vs. Tin Plate Co. of India Ltd.**’ It is contended that the respondent had his education in Hindi and therefore, he could not understand the meaning of word prosecution and therefore, the bonafide error in wrong answer should have been ignored as has been done by the High Court.

10. We find that the respondent, seeking appointment to the post of trained graduate teacher, is not an illiterate or uneducated person who can claim the ignorance of the meaning of the word ‘prosecution’. Avtar Singh (supra) was a case of the appointment to the post of a constable. This Court has held that giving of a wrong information disentitles the candidate for appointment.

11. In the present case, the respondent is responsible for shaping career of young students. What kind of message he will be giving to the students by his conduct based on untruthfulness?

12. The judgment referred to by learned counsel for the respondent is in respect bills of entry to Customs House for re-assessment at appropriate rates of duty effective on the date of entry inwards of the subject vessels. This Court found that there is no material tendered by the revenue that there was any attempt on the part of the assessee to deceive or induce the authorities to release the goods notwithstanding the expiry of the period of the exemption notification. But, an employee desirous of holding civil post has to act with utmost good faith and truthfulness. Truthfulness cannot be made causality by an aspirant much more for a candidate aspiring to be a teacher.

13. Consequently, the appeal is allowed. The orders passed by the High Court are set aside; the order of the Central Administrative Tribunal is restored, consequently the order of removal is upheld.

Pending application(s), if any, also stand disposed of.