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NC: 2023:KHC-K:7889-DB
WP No. 202753 of 2023

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 4TH DAY OF OCTOBER, 2023

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO.202753 OF 2023 (S-KSAT)

BETWEEN:

SRI NARAYAN JAMADAR

...PETITIONER

(BY SRI MAHESH PATIL, ADVOCATE)

AND:

KARNATAKA STATE POLICE DEPARTMENT
SPECIAL RESERVE POLICE CONSTABLE,
APPOINTING AUTHORITY AND
COMMANDANT OFFICE,
INDIAN RESERVE BETTALION,
ARIKERE, VIJAYAPURA DISTRICT,
VIJAYAPURA - 586 104.

...RESPONDENT

(BY SRI VEERANAGOUDA MALIPATIL, HCGP)

Digitally signed by
KHAJAJAMEEN L
MALAGHEAN
Location: HGH
COURT OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE IMPUGNED ORDER DATED:19.07.2022 PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL KALABURAGI BENCH IN APPLICATION NO.20635/2021 AT ANNEXURE-C AND CONSEQUENTLY TO ALLOW THE APPLICATION NO.20635/2021 FILED BY THE PETITIONER BEFORE THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AS PRAYED FOR, IN THE INTEREST OF JUSTICE AND EQUITY, TO DIRECT THE RESPONDENT TO ISSUE APPOINTMENT ORDER IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, **MOHAMMAD NAWAZ J.**, MADE THE FOLLOWING::

ORDER

This writ petition is directed against the order dated 19.07.2022 passed by the Karnataka State Administrative Tribunal, Kalaburagi (for short, 'the Tribunal') in Application No.20635/2021 (Annexure-C).

2. We have heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent.



3. In the year 2020, the respondent issued an order for filling up the posts in the cadre of Special Reserve Police Constable (KSRP) (MEN) and Police Constable IRB (MEN) and also Special Reserve Police Constable (KSRP) and IRB (BANDSMEN) (MEN). The petitioner herein submitted the application on 16.06.2020. It is the case of the petitioner that in the examination, he scored 71 out of 100 marks and he was selected in the provisional list and placed at Sl.No.63. However, in the second provisional list, his name was deleted, as he was found involved in a criminal case,. The endorsement dated 09.06.2021 issued in this regard was challenged before the Tribunal and the dismissal of the said application is called in question before this Court in this petition.

4. The contention of the learned counsel for the petitioner is that in identical situation, this Court in Writ Petition No.201551/2021 disposed of on 26.06.2023, relying on the decision of the Hon'ble Apex Court in the



case of ***Avtar Singh vs. Union of India***¹ has allowed the said petition. It is contended that the notification did not require disclosure of any pending criminal proceedings, hence there cannot be any allegation of suppression of material fact and further the failure to disclose the criminal proceedings may not by itself be fatal to the case. He has further contended that the petitioner has been acquitted of the criminal case which was pending against him at the time of filing the application.

5. It is not in dispute that at the time of filing the application, a criminal case was pending against the petitioner, which was not disclosed by him. It is only when the antecedents of the petitioner was verified by the police, his involvement in a criminal case came to light. Hence, the candidature of the petitioner was not considered for selection.

¹ **(2016) 8 SCC 471**



6. The Government Pleader has submitted that the Director General and Inspector General of Police, Karnataka State Benaglauru, has issued a circular on 04.12.2015, wherein it is clearly stated that if a candidate involves in criminal case and a charge sheet is filed then such candidate should not be considered for selection and the next candidate who is in the merit should be considered for selection. It is not in dispute that a case in Crime No.94/2018 was registered on 18.09.2018, and a charge sheet was also filed, wherein the petitioner was arraigned as accused No.17. When the application was filed by the petitioner on 16.06.2020, the said criminal case was pending before the trial Court, which has been suppressed by the petitioner. The tribunal has rightly held that mere publication of his name in the Provisional Selection list, does not create a vested right to seek appointment. After the verification of the antecedents and character, if it is noticed that a candidate is involved in any criminal cases, then the department has got every right to reject the candidature. Therefore, the case of the



applicant was not considered and the next meritorious candidate was appointed. It is submitted by the learned HCGP that the said candidate has already reported for duties on 28.06.2021 itself.

7. As regards the contention of the learned counsel for the petitioner that the failure to disclose the criminal proceedings may not by itself be fatal to the case, it is observed by this Court in W.P.No.201551/2021 dated 26.06.2023, that it is not fatal to the case if can be shown that the prosecution relates to a trivial conduct or does not involve moral turpitude.

8. The criminal case in which the petitioner was involved relates to offences punishable under Sections 143, 147, 149, 324, 307 and 504 of IPC and hence it cannot be said that, the said prosecution relates to a trivial conduct or it does not involve moral turpitude. Even though the petitioner has been acquitted of the said offences, as on the date of filing of the application, the criminal case was pending against him and the same was



not disclosed in the application, which was required to be stated. Hence, there is no merit in this writ petition and accordingly, the writ petition is dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

SWK,MSR
List No.: 1 SI No.: 22