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WP-1652-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 1st OF MARCH, 2025WRIT PETITION No. 1652 of 2024*ARIF KHAN**Versus**M.P. SASAN DWARA PRAMUKH SACHIV VAN VIBHAG AND OTHERS*

Appearance:*Shri Anand Agrawal - advocate for the petitioner.**Ms. Mradula Sen-GA appearing on behalf of Advocate General.*

ORDER

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking following relief:-

अ. आदेश दिनांक 26/10/17 (एनेक्सर पी/1) एवं आदेश 26/10/18 (एनेक्सर पी/2) निरस्त किये जाने का कष्ट करें तथा विपक्षीगण को निर्देशित करने का कष्ट करें कि वे योचिकाकर्ता को संपूर्ण सेवा लाभ सहित वनरक्षक के पद पर सेवा में पूर्णस्थापित करें।

द. अन्य न्यायोचित सहायता जो भी उचित हो प्रदान करने का कष्ट करें।"

2. The petitioner is aggrieved by the order dated 26/10/2017 (Annexure P-1) whereby, the petitioner, who was posted as forest guard (*Van Rakshak*) has been dismissed from services on account of nondisclosure of criminal cases which was subsequently surfaced in the character verification report. The aforesaid order has also been affirmed in the appeal by the respondent no.2 vide order dated 26.10.2018 (Annexure P-2).

3. In brief facts of the case are that the petitioner was initially appointed as



Van Rakshak on 6.1.2017, and he joined on the said post. However, in his character verification report, it was found that a case under Sections 294, 323, 149 and 506 of the IPC was registered against him, and this fact was not disclosed by the petitioner in his character verification form.

4. Counsel for the petitioner has submitted that it is an admitted fact that the aforesaid criminal case at crime no.253/2011 was registered at police station Thandla, District Jhabua against the petitioner but he was already acquitted vide order dated 19.3.2013 (Annexure P-10) by the trial Court on the basis of compromise arrived at between the parties.

5. Counsel for the petitioner has also submitted that the petitioner was under the impression that since he was already acquitted by the trial Court, there was no necessity for him to reflect the aforesaid facts in the character verification form although he had already furnished the aforesaid information by filing an affidavit on 14/2/2017 along with the an application dated 13.2.2017 (Annexure P-9) accepting his mistake of not mentioning the aforesaid criminal cases. However, this fact has also not been considered by the respondents in the impugned order dated 26.10.2017, and subsequent in the order dated 26.10.2018 passed in appeal.

6. Counsel for the petitioner has also relied upon a decision rendered by this Court in the case of *Mohanlal Pantel Vs. Madhya Pradesh Industrial Development Corporation Indore Ltd passed in W.P.No.16067/2019 order dated 13.4.2024* where also the allegation was of suppression of the facts, as a case under Section 498 A of IPC was registered against the petitioner which fact was not disclosed by him. However, this Court while relying upon a decision rendered by the Supreme Court in the case of **Ravindra Kumar Vs. State of U.P and others reported as 2024 SCC onlince SC 180** in which it is held that suppression of facts leading to disqualification cannot be accepted as a thumb rule, and the nature of



offence is also required to be looked into.

7. Counsel for the respondent/State on the other hand has opposed the prayer, however, it is not denied that the petitioner had already informed the registration of the aforesaid cases in the month of February, 2017 whereas the impugned orders have been passed by the respondents on 26.10.2017 and 26/10/2018.

8. Having considered the rival submissions and on perusal of the documents filed on record, as also the decision rendered by this Court in the case of *Mohanlal Pantel* (supra) the relevant para 10 and 11 reads as under:-

"10] Thus, taking these factors in to consideration, as also the order passed by the Supreme Court in the case of Ravindra Kumar (supra) paras 31 and 33 of the same read as under :-

"31] The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgement of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio economic strata of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered.

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33] On the facts of the case and in the backdrop of the special circumstances set out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can be deemed fatal for the appellant. Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario."

11] It is found that the petitioner is a Class IV employee and was posted as a Helper with the respondent department, and considering the fact that the case under Section 498A of IPC was registered against him, that



too by his daughter-in-law, in which he has already been acquitted, it cannot be said that merely not disclosing the lodging of the aforesaid case against the petitioner would come in his way to claim the annual increment(s). It is apparent that the petitioner has submitted his verification form along with the affidavit under the threat of losing his job, for which under the facts and circumstances of the case, he cannot be blamed."

9. Whereas, so far the present case is concerned, admittedly a minor offence was registered against the petitioner under Sections 294, 323, 149 and 506 of the IPC along with other co-accused persons in which he has already been acquitted, this Court is of the considered opinion that non-disclosure of the said case cannot be treated as fatal to the petitioner, and accordingly, the impugned orders dated 26/10/2017 and 26/10/2018 are hereby quashed.

10. Considering the fact that the forest department has already kept the petitioner in employment on contractual basis he shall not be entitled to claim back wages, however, he is also held entitled to all the other consequential benefits ,w.e,f, 26.10.2017 including pension and other retiral dues.

11. With the aforesaid, the petition stands **allowed and disposed of**.

(SUBODH ABHYANKAR)
JUDGE