

KARRI RAM BABU AND OTHERS

v.

CHAIRMAN, STATE LEVEL POLICE RECRUITMENT
BOARD, HYDERABAD AND OTHERS
(Civil Appeal No. 11387 of 2013)

JULY 11, 2013.

[GYAN SUDHA MISRA AND KURIAN JOSEPH, JJ.]

Service Law:

Discharge of police constables for suppressing information in attestation form – Appellants participating in a ‘dharna’ – Removed to police station and released – Held: It cannot be said that the appellants were aware of the fact that they had been involved in any criminal case — There is no question of their suppressing any fact regarding their alleged arrest – Impugned orders and memoranda quashed – In order to do complete justice, benefit also given to third petitioner before High Court and Tribunal, who could not approach Supreme Court owing to financial constraints — Constitution of India, 1950 – Art. 142 r/w Art.136 – Appeal – Benefit extended to non-appellant-trainee..

The appellants participated in the process of selection for appointment to the post of police constables S.C.T.P.C. (Civil) (Men). As there was inordinate delay in the announcement of results of the written examination, they along with many others staged a *dharna* in front of the District Police Office on 17.4.2010. The protestors were removed by the Sub-Inspector of Police, and were taken to the police station and were released after some time the same day. Subsequently, the results were announced. The appellants were selected and were sent for training where a Memorandum dated 20.04.2011 was issued to them by the first respondent stating that they

A were selected on account of an oversight regarding their
 involvement in a criminal case and, therefore, their
 selection should be cancelled. Accordingly, the Principal
 of the Police Training College discharged the appellants
 as per memorandum dated 21.4.2011. The State
 B Administrative Tribunal dismissed their applications
 holding that in the attestation forms, which they filled in
 December, 2010, they suppressed the information
 regarding the registration of the case and also their arrest
 which had taken place on 17.4.2010. The High Court
 C affirmed the view of the Administrative Tribunal.

Allowing the appeal, the Court

HELD: 1.1. It has been recorded in the FIR that the
 appellants were removed u/s 151 of the Code of Criminal
 D Procedure, 1973. There is no case that the appellants had
 been informed of their arrest or that they had been
 released on bail. It cannot be said that the appellants
 were aware of the fact that they had been involved in any
 criminal case. The attestation form would show that only
 E if the first question regarding involvement in any criminal
 case is answered in affirmative, the rest of the columns
 needed to be filled-up. As the appellants were not aware
 of their involvement in any criminal case, there is no
 question of their suppressing any fact regarding their
 F alleged arrest. [para 7] [952-F-H; 953-A]

1.2. The impugned judgment dated 10.04.2012 of the
 High Court, order dated 28.09.2011 of the Administrative
 Tribunal and the impugned memoranda dated 20.04.2011
 and 21.04.2011 are set aside. The appellants shall be re-
 G inducted for training immediately and permitted to
 complete the training to the extent of the unexpired
 period. Their original seniority shall be restored.
 However, they shall not be entitled to any emoluments
 during the period they had been kept out. In order to do
 H complete justice in the cause, it is made clear that the

benefit of this judgment shall be available to the third A
petitioner before the Tribunal and the High Court, in case
he is interested. [paras 8-9] [953-D-E, H; 954-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No.
11387 of 2013. B

From the Judgment & Order dated 10.4.2012 of the High
Court of Judicature of Andhra Pradesh at Hyderabad in Writ
Petition W.P. No. 9729 of 2012.

G.V.R. Choudary, A. Chandra Sekhar, K. Shivraj C
Choudhari for the Appellants.

A.T.M. Rangaramanjam, B. Debojit, G.N. Reddy for the
Respondents.

The Judgment of the Court was delivered by D

KURIAN, J. Leave granted.

2. Appellants participated in the process of selection for
appointment to the post of police constables S.C.T.P.C. (Civil) E
(Men) initiated as per Notification dated 30.12.2008 issued by
the first respondent. According to the appellants, as there was
inordinate delay in the announcement of results of the written
examination, they staged a *dharna* in front of the District Police
Office, Kakinada along with many other candidates on F
17.04.2010 demanding announcement of the results without
delay. It is alleged that the protestors were removed by the Sub-
Inspector of Police, Kakinada II Police Station and were taken
to the police station and were released after some time.
Subsequently, the results were announced. Appellants were
successful and, on being selected, they were sent for the nine G
months induction training w.e.f. 17.04.2011. While they were
undergoing the training, Memorandum dated 20.04.2011 was
issued by the first respondent stating that the appellants were
selected on account of an oversight regarding their involvement
in a criminal case and, hence, their selection should be H

A cancelled. Accordingly, the Principal of the Police Training
 College discharged the appellants and four others as per
 memorandum dated 21.4.2011. The appellants approached
 the Andhra Pradesh State Administrative Tribunal, which by
 order dated 28.09.2011, dismissed their applications holding
 B as follows:

“The applicants signed the attestation forms on
 27.12.2010, 28.12.2010 and 29.12.2010 respectively and
 in column No. 16, they declared that they were not involved
 in any criminal case and they were not arrestee. The
 C incident took place on 17.4.2010 whereas the attesting
 forms were signed by the applicants on 27.12.2010,
 28.12.2010 and 29.12.2010 respectively. Clearly the
 applicants suppressed the information regarding the
 registration of the case and also their arrest. Therefore,
 D there are no merits in the OA., and the O.A. is, accordingly,
 dismissed. ...”

3. The order of the Administrative Tribunal was challenged
 before the High Court, leading to the impugned order dated
 E 10.04.2012. The High Court concurred with the view taken by
 the Administrative Tribunal.

4. It is the case of the appellants that they were not aware
 of their involvement in any criminal case. According to them,
 they were not arrested; they were only removed from the place
 F of *dharna* to the police station and were released after some
 time. It is in such circumstances only, while filling-up the
 attestation form, they stated that they were not involved in any
 criminal case. It is only later that they came to know that the
 police had registered FIR No. 74 of 2010 against them on the
 G file of the Kakinada II Town Police Station, East Godavari
 District in connection with the alleged incident of *dharna*.
 Appellants content that had they been aware of this fact, they
 would have specifically mentioned it when the attestation forms
 were submitted.

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5. For the purpose of easy reference, we shall extract the relevant portion of the attestation form: A

16.	Whether you were involved in any criminal case?	Yes No
	If yes, indicate	
	(a) Crime No.	
	(b) Year	
	(c) Name of the Police Station	
	(d) Name of the district	
	(e) Whether you were arrested by police?	Yes No
	(f) Whether you were prosecuted by the police in a court of law? If so, indicate the present stage of this case:	
	(1) under trial	
	(2) convicted	
	(3) compounded	
	(4) acquitted	
	Note: (1) if convicted whether such conviction sustained in the Court of Appeal or set aside by the appellate Court if appealed against:	
	(2) If involved in a criminal case subsequent to the completion and submission of this form, the details should be informed immediately to the authority to whom the attestation form has been submitted earlier failing which it will be deemed to be a suppression of factual information	
	(3) If you were involved in more than one criminal case?	Yes No
	(Emphasis supplied)	

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A 6. The first respondent has filed a counter affidavit before
this Court. Paragraph 4 of the counter affidavit reads as follows:

B "I respectfully submit that while selection process
was going on and even before announcement of the results
of the selection process, the Petitioners herein have
misbehaved, staging a dharna/protect before the District
Police Office, Kakinada on 17.04.2010 demanding to
announce the police constables results quickly. The SI of
police, II Town Police Station of Kakinada of East
Godavari District has arrested them at about 12.15 PM
C and registered a crime No. 74 of 2010 u/s 151 Cr.PC. The
have been detained at the said Police Station upto 6.00
P.M. But subsequently the said case was dropped treating
it as preventive act. So, the Petitioner herein were very
much aware that they have been arrested and the said
D crime was registered against them. They have suppressed
the said fact of their arrest and registration of the said crime
in the attestation form which was signed by them and
submitted on 27.12.2010, 28.12.2010 and 29.12.2010
respectively, which was much subsequent to their arrest
E and registration of the said crime on 17.04.2010."

(Emphasis supplied)

F 7. We have also gone through Annexure P1-FIR wherein
it is recorded that the appellants have been removed under
Section 151 of The Code of Criminal Procedure, 1973. There
is no case for the respondents that the petitioners had been
informed of registration of the case. It is not stated in the FIR
as to what was the cognizable offence which the appellants had
designed to commit. There is also no case for the respondents
G that the appellants had been informed of their arrest or that they
have been released on bail. In such circumstances, in our view,
it cannot be said that the appellants were aware of the fact that
they had been involved in any criminal case. A close analysis
of the attestation form would show that only if the first question
regarding involvement in any criminal case is answered in
H affirmative, the rest of the columns needed to be filled-up. As

we have already stated above, the appellants were not aware of their involvement in any criminal case. Therefore, there is no question of their suppressing any fact regarding their alleged arrest. The whole case of respondents and, as seen by the Administrative Tribunal and the High Court, is that the appellants had suppressed their arrest in connection with FIR No. 74 of 2010. As we have explained above, it is not a situation of the appellants getting involved in a criminal case, in which they were under-trials or the trial is compounded or where there is conviction or acquittal, as explained in column 16(f) as the attributes of a criminal case. If that be so, the appellants were not expected even to fill-up column no. 16(e) and, thus, there is no question of any suppression of any material fact.

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8. The appeal is allowed. The impugned judgment dated 10.04.2012 of the High Court, order dated 28.09.2011 of the Administrative Tribunal and the impugned memoranda dated 20.04.2011 and 21.04.2011 are set aside. The appellants shall be reinducted for training immediately. They shall be permitted to complete the training to the extent of the unexpired period. Their original seniority shall be restored. The appellants shall be entitled to continuity of service at par with their compeers. However, we make it clear that they shall not be entitled to any emoluments during the period they had been kept out. But it is made clear that if this order is not implemented within a period of one month from the date of production of copy of this judgment before the first respondent, the appellants shall be entitled to all service benefits including the salary for the period they have been kept out and the officers responsible for the delay will be personally liable for the same.

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9. We find that there were four candidates proceeded against on this issue. All the four were before the State Administrative Tribunal and the High Court. Apparently, one among them has not traveled to Delhi, to this Court. If the same is owing to financial constraints, justice shall not be denied to him on that count. For doing complete justice in this cause, we

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A make it clear that the benefit of this judgment shall be available to the third petitioner before the Tribunal and the High Court (Vanamadi Beema Raju), in case he is interested, who shall be duly informed.

B 10. There is no order as to costs.

Rajendra Prasad

Appeal allowed.