

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

**Present :-
The Hon'ble Mrs. UrmitaDatta(Sen)
MEMBER (J)**

-AND-

**The Hon'ble Mr. P. Ramesh Kumar
MEMBER(A)**

**J U D G E M E N T
-of-
Case No. OA-222 of 2015**

Sk. Farjul.....Applicant.

-Versus-

State of West Bengal & others....Respondents

**For the Applicants :- Mr. Manujendra Narayan Roy,
Learned Advocate**

**For the State Respondents :- Mr. Subit Kumar Mondal,
Learned Advocate**

Judgement delivered on : 15th March, 2019

**The Judgement of the Tribunal was delivered by :-
Hon'bleMrs. UrmitaDatta (Sen), Member(J)**

J U D G E M E N T

The instant application has been filed praying for the following reliefs :

- (a) An order directing the concerned respondent authorities to forthwith cancel/quash/revoke/rescind the impugned discharge order vide DC Port's Order No. 719 dated 31-05-2014, being Annexure "B" to this instant Original Application issued by the Deputy Commissioner of Police Port Division, Kolkata.**
- (b) An order directing the concerned respondent authorities to forthwith reinstate your applicant in service after setting aside the impugned order vide DC Port's Order No. 719 dated 31-05-2014, in the light of the judgement dated 31-01-2015 delivered by the Ld. Judicial Magistrate, 3rd Court, Malda in connection with G.R. Case No. 2668 of 2008.**
- (c) An order directing the concerned respondent authorities to consider the case of your applicant herein sympathetically as he is energetic youth, and the order of discharge from service immensely discouraged him and demoralized his intents to serve the Govt. and moreover his entire family is depend on him.**
- (d) An order directing the concerned respondent authorities to transmit all records pertaining to the instant original application before this Hon'ble Tribunal so that conscionable justice can be done.**

(e) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protect the right of the applicant and in the ends of justice.

As per the applicant, he was appointed as Police Driver being No. AF-1457 in Calcutta Police. However he was discharged from his service vide D.C. Port's Order No. 719 dated 31-05-2014(Annexure-D) on the ground of suppression of fact of involvement in a criminal case being Manickchak P. S. case of 151 of 2008 dated 19-11-2008 while submitting the Verification Roll. As per the applicant, one criminal case was lodged on the complaint of Nasaman Bibi (being the wife of the applicant herein) under Section 498(A)/34 of IPC 1860, which was culminated into charge sheet of G. R. Case No. 2668 of 2008. However he was acquitted from the said charges on the basis of the withdrawal of his wife's complaint and now is leaving happily (Annexure-A Collectively). He was acquitted vide order dated 31-01-2015 issued by Learned Judicial Magistrate, 3rd Court, Malda.

According to the applicant, the said charges has no relation with the service of the applicant being purely private in nature. Further there was no intentional latches on the part of the applicant in suppressing the material fact of involvement in the said criminal case in column 13 of the P.V.R. as he has been already acquitted from the said criminal case. Therefore, the discharge order should be revoked and he should be allowed to join his duty. Being aggrieved with, he has filed the instant application.

The respondents have filed their written statement and have submitted that in the P.V.R. form against column No. 13, there was a specific direction to declare whether the applicant was ever been convicted by a Court of any offence or charge sheet by the police in connection with the criminal proceeding, against which the applicant specifically mentioned 'No' in the P.V.R. form submitted on 22-11-2012, whereas actually one criminal case was started in the year 2008. Therefore having full

knowledge of the same, the applicant cannot claim that his declaration in P.V.R. was unintentional. Therefore according to the provision contained in Sub-Clause III of Clause D of the Notification No. 1083-PL/PI/8C-7/05 dated 20-03-2006, he has been rightly discharged from the service. Therefore the respondents have prayed for dismissal of the OA. In support of their contention, the Counsel for the respondent has referred the following judgements :-

(1) (2005) 7 Supreme Court Cases 177

A. P. Public Service Commission

-Vs-

Koneti Venkateswarulu and Others.

(2) (2008) 1 Supreme Court Cases.

R. Radhakrishnan

-Vs-

Director General of Police and Others.

(3) Civil Appeal No (s) 18798/2017

Avtar Singh

-Vs-

Union of India and Others.

(4) Case No. OA-674 of 2016.

Ashok Chowdhury

-Vs-

State of West Bengal & Others.

The applicant has filed his rejoinder basically reiterating the same submission made in the OA.

Heard the parties and perused the records. During the course of the hearing, the Counsel for the respondent has also placed the copy of the Verification Roll submitted by the applicant on 22-11-2012 during his selection process. It is noted that the applicant was discharged from the police service for willful suppression of the fact of his involvement in

Manickchak P. S. case of 151 of 2008 dated 19-11-2008 under Section 498(A)/34 of Indian Penal Code, which was culminated in charge sheet No. 148 of 2008 dated 30-11-2008,. From the perusal of the Verification Roll, it is further noted in column 13 of the said Verification Roll certain information was asked for and the remarks of the applicant, which is as follows :

<u>(Question)</u>	<u>(Answer)</u>
(13) Have you ever been convicted by a Court of any officer or charge-sheeted by the police in connection with any criminal proceeding? If so, the full particulars of the case should be given.	- No -

From the above, it is clear that it is not a case of inadvertent mistake by keeping the said column blank but after understanding the required information of the said column, the applicant had specifically said 'No'. Therefore there are no scope of any unintentional suppression of the fact as the applicant was very much aware of submission of charge sheet by the police in the said criminal case in the year 2008, whereas the Verification Roll was submitted in the year 2012. Thus undisputedly the applicant intended to obtain appointment by suppressing the fact. It is also observed that at no point of time did the applicant inform the respondents that there was a bonafide mistake caused by him in filling up the application form or that there was inadvertence on his part in doing so. It is only when the respondents verified and discovered such wrong information/suppression of fact on the part of the applicant then only the applicant came with an excuse of unintentional latches. Therefore, such explanation/excuses are not acceptable as it confirms incontrovertible **Suppressio Veri and Suggestio Falsi** on the part of the applicant. Further subsequent acquittal from the said criminal case in the year 2015 cannot save him from the charges of false declaration or suppression of fact as the grounds for his discharge was suppression of fact of

his involvement in criminal case. We have perused the aforementioned judgements and find that the instant case is squarely covered by those judgements.

Therefore in our considered view, a person who was indulged in such suppression of fact and obtained employment by false pretends does not deserve any public employment. Accordingly, the OA is dismissed being devoid of merit with no order as to cost.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA(SEN)
MEMBER(J)