

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 1430 OF 2007

COMMR.OF POLICE AND ORS

Appellant (s)

VERSUS

SANDEEP KUMAR

Respondent(s)

O R D E R

Heard learned counsel for the parties.

This Appeal has been filed against the impugned judgment of the High Court of Delhi dated 31.07.2006.

The facts have been given in the impugned judgment and hence we are not repeating the same here, except wherever necessary.

The respondent herein-Sandeep Kumar applied for the post of Head Constable (Ministerial) in 1999. In the application form it was printed :

"12(a) Have you ever been arrested, prosecuted kept under detention or bound down/fined, convicted by a court of law for any offence debarred/disqualified by any Public Service Commission from appearing at its examination/selection or debarred from any Examination, rusticated by any university or any other education authority/Institution."

Against that column the respondent wrote : 'No'.

It is alleged that this is a false statement made by the respondent because he and some of his family members were involved in a criminal case being FIR 362 under Section 325/34 IPC. This case was admittedly compromised on 18.01.1998 and the respondent and his family members were acquitted on 18.01.1998.

In response to the advertisement issued in January 1999 for filing up of certain posts of Head Constables (Ministerial), the respondent applied on 24.02.1999 but did not mention in his application form that he was involved in the aforesaid criminal case.

The respondent qualified in all the tests for selection to the post of temporary Head Constable (Ministerial). On 03.04.2001 he filled the attestation form wherein for the first time he disclosed that he had been involved in a criminal case with his tenant which, later on, had been compromised in 1998 and he had been acquitted.

On 02.08.2001 a show cause notice was issued to him asking the respondent to show cause why his candidature for the post should not be cancelled because he had concealed the fact of his involvement in the aforesaid criminal case and had made a wrong statement in his application form. The respondent submitted his reply on 17.08.2001 and an additional reply but the authorities were not satisfied

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with the same and on 29.05.2003 cancelled his candidature.

The respondent filed a petition before the Central Administrative Tribunal which was dismissed on 13.02.2004. Against that order the respondent filed a writ petition which has been allowed by the Delhi High Court and hence this appeal.

The learned counsel for the appellants has submitted that the respondent should have disclosed the fact of his involvement in the criminal case even if he had later been acquitted. Hence, it was submitted that his candidature was rightly cancelled.

We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter.

When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

In this connection, we may refer to the character 'Jean Valjean' in Victor Hugo's novel 'Les Miserables', in which for committing a minor offence of stealing a loaf of bread

for his hungry family Jean Valjean was branded as a thief for his whole life.

The modern approach should be to reform a person instead of branding him as a criminal all his life.

We may also here refer to the case of Welsh students mentioned by Lord Denning in his book 'Due Process of Law'. It appears that some students of Wales were very enthusiastic about the Welsh language and they were upset because the radio programmes were being broadcast in the English language and not in Welsh. Then came up to London and invaded the High Court. They were found guilty of contempt of court and sentenced to prison for three months by the High Court Judge. They filed an appeal before the Court of Appeals. Allowing the appeal, Lord Denning observed :-

"I come now to Mr. Watkin Powell's third point. He says that the sentences were excessive. I do not think they were excessive, at the time they were given and in the circumstances then existing. Here was a deliberate interference with the course of justice in a case which was no concern of theirs. It was necessary for the judge to show - and to show to all students everywhere - that this kind of thing cannot be tolerated. Let students demonstrate, if they please, for the causes in which they believe. Let them make their protests as they will. But they must do it by lawful means and not by unlawful. If they strike at the course of justice in this land - and I speak both for

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England and Wales - they strike at the roots of society itself, and they bring down that which protects them. It is only by the maintenance of

law and order that they are privileged to be students and to study and live in peace. So let them support the law and not strike it down.

But now what is to be done? The law has been vindicated by the sentences which the judge passed on Wednesday of last week. He has shown that law and order must be maintained, and will be maintained. But on this appeal, things are changed. These students here no longer defy the law. They have appealed to this court and shown respect for it. They have already served a week in prison. I do not think it necessary to keep them inside it any longer. These young people are no ordinary criminals. There is no violence, dishonesty or vice in them. On the contrary, there was much that we should applaud. They wish to do all they can to preserve the Welsh language. Well may they be proud of it. It is the language of the bards - of the poets and the singers - more melodious by far than our rough English tongue. On high authority, it should be equal in Wales with English. They have done wrong - very wrong - in going to the extreme they did. But, that having been shown, I think we can, and should, show mercy on them. We should permit them to go back to their studies, to their parents and continue the good course which they have so wrongly disturbed."

[Vide : Morris Vs. Crown Office, (1970) 2 Q.B. 114]

In our opinion, we should display the same wisdom as displayed by Lord Denning.

As already observed above, youth often commit indiscretions, which are often condoned.

It is true that in the application form the respondent did not mention that he was involved in a criminal case

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under Section 325/34 IPC. Probably he did not mention this

out of fear that if he did so he would automatically be disqualified.

At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.

For the reasons above given, this Appeal has no force and it is dismissed. No costs.

.....J.
(MARKANDEY KATJU)

.....J.
(GYAN SUDHA MISRA)

NEW DELHI;
MARCH 17, 2011.

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JUDGMENT