

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 2748/2016

Shyam Singh Rajput Rana S/o Shri Rameshwar, aged about 32 years, resident of Village Agar, Tehsil Thanagaji, District Alwar, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan Through The Director, Panchayati Raj Department, Jaipur.
2. The Chief Executive Officer, Zila Parishad, Alwar.
3. The Block Development Officer, Panchayat Samiti, Thanagaji, District Alwar.

-----Respondents

For Petitioner(s)	:	Mr. Shyam Singh Rajput Rana, petitioner present in person
For Respondent(s)	:	Mr. Pradeep Kalwania

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

17/03/2023

Hon'ble Apex Court in the case of **Ex-Capt. Harish Uppal Vs. Union of India & Anr.** reported in **(2003) 2 SCC 45** has held that the Court is under an obligation to hear and decide the case brought before it and it cannot shirk that obligation only because the lawyers have decided to abstain from the judicial work.

Looking to the short controversy involved in this petition, this Court thought it proper to peruse the file and decide the matter on its merits.

Instant petition has been filed by the petitioner with the following prayer:

"It is, therefore humbly prayed that Your Lordship may graciously be pleased to accept and allow this writ petition and by an appropriate writ, order or direction:-

1. The respondents may kindly be directed to appoint the petitioner on the post of LDC at Panchayat Samiti, Thanagaji, Zila Parishad, Alwar, with effect from the date, persons lower in merit were given appointment with all consequential benefits.
2. Any other appropriate order, which may be found just and proper in the facts and circumstances of the case, be passed in favour of the petitioner.
3. Cost of the writ petition may also be awarded in favour of the petitioner."

Petitioner has put appearance in person and submitted that in pursuance of the advertisement issued in the month of February 2013, the petitioner participated in the process of selection for appointment on the post of Lower Divisional Clerk (for short 'LDC'). He further submits that in spite of the selection, appointment has not been given to him without any justified reason. He submits that no criminal case was pending against him when he participated in the process for selection. He submits that even an experience certificate was given to him by the authorities finding his service satisfactory and on the basis of the said certificate, the petitioner participated in the process of selection. Petitioner submits that the respondents have no authority to withhold his appointment. So, appropriate directions be issued to the authority to consider the case of the petitioner for appointment on the post of LDC.

Per contra, learned counsel for the State – respondents opposed the arguments raised by the petitioner and submitted

that though the petitioner was selected on the post of LDC but in his application form dated 15.04.2013, the petitioner has concealed / suppressed the fact of pendency of criminal case against him. Counsel submits that a criminal case was registered against the petitioner for the offences under Sections 13(1)(D) and 13(2) of the Prevention of Corruption Act, 1988 and under Section 420 and 120B IPC and Section 25 of the National Rural Employment Guarantee Act, 2005. He further submits that the matter was kept pending at Anti Corruption Bureau Police Station, Jaipur Checkpost Alwar, bearing No.144/2012 dated 20.07.2012. He submits that the petitioner was well aware about the factum of pendency of aforesaid criminal case against him with Anti Corruption Bureau but intentionally and deliberately the petitioner concealed the above fact from the authorities. Hence, the State respondents have not committed any error in not granting appointment to the petitioner. In support of his contentions he has placed reliance upon the judgments of Hon'ble Apex Court passed in the case of:

1. **Rajasthan Rajya Vidyut Prasaran Nigam Limited and Anr. vs. Anil Kanwariya**, reported in **2021 (10) SCC 136**.
2. **State of Rajasthan and Ors. vs. Chetan Jeff (Civil Appeal No.3116/2022)** decided on 11.05.2022.

Counsel submits that in view of the submissions made herein above, the petitioner is not entitled to get the relief sought by him in this petition.

Heard. Considered the submissions made at the Bar and perused the material available on the record.

This fact is not in dispute that a matter was reported to Police Station on 20.07.2012 whereupon case No.144/2012 was registered and a preliminary inquiry was conducted against the petitioner and co-accused persons under Sections 13(1)(D) and 13(2) of the Prevention of Corruption Act, 1988 and under Section 420 and 120B IPC and Section 25 of the National Rural Employment Guarantee Act, 2005. This fact is also not in dispute that the petitioner was aware about the above preliminary inquiry and case No.144/2012 pending against him with Anti Corruption Bureau but he has suppressed these facts at the time of filing the application form for participation in the process of selection.

Hon'ble Apex Court in the case of **Anil Kanwariya (supra)** has dealt with the identical issue in para No.14 as under:

"14. The issue/question may be considered from another angle, from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment i.e. while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must

be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right.”

In view of the aforesaid facts and circumstances, it is established that the petitioner has concealed and suppressed pendency of criminal case against him. Thus, he is not entitled to get any relief from this Court.

Instant petition is found to be devoid of merit and the same is hereby dismissed.

Stay application and all pending applications, if any, also stand dismissed.

(ANOOP KUMAR DHAND),J