

Director General of Police and Others

Vs

Mrityunjoy Sarkar and Others

Civil Appeal No. 5382 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

18.03.1996

ORDER

1. Leave granted. Heard learned counsel on both sides.
2. The admitted position is that the respondents came to be appointed by proceedings dated 25/26-4-1985 as Constables in the State Armed Police. The basis for their recruitment was the list furnished by the Employment Exchange, Katwa. They are discharged from the service by proceedings effective from 1-1-1986 which came to be challenged in the High Court. The High Court has set aside the order of discharge. On appeal, it was confirmed in MFA No. 682 of 1987 by order dated 26-3-1991. Thus this appeal by special leave.
3. In the discharge order, it was stated that the respondents had exercised the power under Rule 34(b) of the West Bengal Service Regulations (Part I) and the instructions contained in Memo No. 4145(2) dated 22-11-1985 of the Assistant Inspector General of Police, West Bengal. It is not in dispute that the Commissioner of Labour in his letter dated 5/7-9-1985 had informed the appellants that the list of the names forwarded by the Employment Exchange was a fake one and their names were fabricates as they do not correspond to the entries in the Employment Exchange. Consequently, he directed the appellants to take action according to rules. It would thus be clear that the foundation for discharge is production of fake list of persons from the Employment Exchange for recruitment as Armed Reserved Constables. If that is accepted, then it would cause a stigma on the respondents for future recruitment as they have produced fictitious record to secure employment. Principles of natural justice require that they should be given reasonable opportunity of representation in the enquiry to be conducted and appropriate orders with reasons in support thereof need to be passed. It is settled legal position and the said procedure has not been followed. Under these circumstances, the High Court had not committed any error in dismissing the appeal. It would be open to the appellants to issue notice to all the respondents and consider their case and then pass appropriate orders with reasons, however brief they may be, in support thereof within a period of six weeks from the date of the receipt of this order. The said notice shall be given to the respondents stating the grounds on which they seek to discharge them and the respondents are directed to submit their objections, if any, and the material in support thereof within one month thereafter. After receipt of the objections, the appellants are directed to consider the objections and pass appropriate orders within six weeks thereafter and to communicate the same to all the respondents with acknowledgement due. The order, as stated earlier, should contain concise reasons in support of their conclusions.
4. The appeal is accordingly allowed. No costs.