

SUPREME COURT OF INDIA

State of West Bengal & Ors.

Vs.

Nazrul Islam

C.A.No.8638 of 2011

(R.V.Raveendran and A.K.Patnaik,JJ.,)

13.10.2011

ORDER

A.K.Patnaik,J.,

SLP (Civil) No.5449 of 2011

Leave granted.

2. This is an appeal against the order dated 14.09.2010 of the Division Bench of the Calcutta High Court in W.P.S.T. No.1911 of 2008.

3. The facts very briefly are that on 26.07.2007 the Police Directorate of West Bengal notified recruitment of Constables in the West Bengal Police from Howrah District. The name of the respondent was sponsored by the Employment Exchange, Uluberia, Howrah, for recruitment as Constable and on 17.09.2007 the provisional select list was notified in which the respondent's name found place at serial no.76. The respondent appeared before the Medical Board and was found medically fit. On 28.09.2007, the respondent was supplied a Verification Roll for verification of his antecedents and the respondent filled the Verification Roll and submitted the same to the Reserve Officer, Howrah, on 29.09.2007. The Verification Roll of the respondent was sent to the District Intelligence Branch, Howrah, on 08.10.2007. In the course of enquiry, it came to light that he was involved in a criminal case involving offences under Sections 148/323/380/448/427/506, IPC, in Bagnan PS Case No.97 of 2007 and after investigation, the charge-sheet had already been filed in the Court of the Additional Chief Judicial Magistrate, Uluberia, Howrah, and that the respondent had surrendered before the Court and had been granted bail. All these facts, however, had been concealed in column no.13 of the Verification Roll submitted by the respondent in which he was required to state whether he was ever arrested, detained or convicted. The authorities, therefore, did not appoint the respondent as a Constable.

4. Aggrieved, the respondent filed O.A.No.2500 of 2008 before the West Bengal Administrative Tribunal for a direction upon the authorities to issue appointment letter in his favour, but by order dated 25.07.2008 the Tribunal declined to grant any relief to the

respondent. The order of the Tribunal was challenged by the respondent before the High Court and in the impugned order, the High Court held that the authorities were not entitled to withhold the offer of appointment to the respondent and directed the authorities to issue the letter of appointment in favour of the respondent without any further delay. The High Court, however, observed in the impugned order that the appointment of the respondent to the post of Constable will abide by the final decision of the pending criminal case.

5. We have heard learned counsel for the parties and we fail to appreciate how when a criminal case under Sections 148/323/380/448/427/506, IPC, against the respondent was pending in the Court of the Additional Chief Judicial Magistrate, Uluberia, Howrah, any mandamus could have been issued by the High Court to the authorities to appoint the respondent as a Constable. Surely, the authorities entrusted with the responsibility of appointing constables were under duty to verify the antecedents of a candidate to find out whether he is suitable for the post of constable and so long as the candidate has not been acquitted in the criminal case of the charges under Sections 148/323/380/448/427/506, IPC, he cannot possibly be held to be suitable for appointment to the post of Constable.

6. We, therefore, allow the appeal, set aside the impugned order of the High Court and dismiss the Writ Petition under Articles 226/227 of the Constitution filed by the respondent in the High Court. There shall be no order as to costs.