

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7122 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HEMANT BALKIRSHNA SHAH

Versus

DIRECTOR GENERAL OF POLICE

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Appearance:

None present for the petitioner.

Shri SP Hasurkar for Respondents No.1, 2 and 4

None present for Respondent No.3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/04/99

ORAL JUDGEMENT

1. Heard learned counsel for the respondents No.1, 2 and 4.

2. Perused this Special Civil Application and affidavit-in-reply. Respondent No.3 Gujarat Public Service Commission vide its advertisement No.1-91-92

invited applications for selection to the post of Unarmed Police Sub Inspector. Pursuant to the advertisement aforesaid the petitioner had applied for the post of Unarmed Police Sub Inspector. He was called for written test which was held in the month of December, 1991. After he had cleared successfully written test, he was called for physical test and oral interview in the month of December, 1993. The petitioner has been informed by the respondent No.3 under its letter dated 28.4.1993 that he has been put at serial No.11 in the waiting list. After exhausting main select list the respondents have operated waiting list and in December, 1995 the persons who were below the petitioner in the waiting list were sent for training. Hence, this Special Civil Application before this Court by the petitioner.

3. Prayer has been made by the petitioner that the respondents may be directed to appoint the petitioner to the post of Unarmed Police Sub Inspector with all consequential and incidental benefits.

4. In reply to this Special Civil Application, respondents No.1, 2 and 4 have come up with the case that on verification of the antecedent of the petitioner before appointment in the police force, it has found that he has been arrested for the charges under the provisions of IPC and the Prohibition Act. Against the petitioner there were criminal cases details of which have been given in para 4 of the reply. In the Special Civil Application the petitioner has stated that over and above these two criminal cases there were two other criminal cases were registered against him. In these two cases the petitioner has been acquitted before the inquiry was made by the District Superintendent of Police, Bharuch. So from these facts it is clearly come out that the petitioner has been involved in as many as four criminal cases.

5. It is true that, in criminal cases the petitioner has been acquitted, but after acquittal the case of the petitioner has been reexamined and it was not considered to be reasonable in the interest of administration to give appointment to the petitioner. Merely because the petitioner has been acquitted it is not his right to pray for the appointment. However antecedents are to be considered and in a given case where admittedly the petitioner was involved in four criminal cases, if the respondent has decided not to give appointment to the petitioner, no interference to this decision can be made.

6. Rule 41 of the Police Manual has been pressed

into the service by the petitioner and the contention is sought to be raised that when conviction itself is not considered as disqualification for the Government service, in this case where the petitioner has been acquitted in all four criminal cases, he should not have been denied the appointment.

7. I do not find any substance in this contention because each case has to be decided on its own facts and where in a given case on the basis of the allegations against the petitioner in the criminal cases though he has been acquitted, he has not been given the appointment, this decision cannot be said to be wholly arbitrary. The petitioner is praying for giving him appointment on the post of Police Sub Inspector i.e. services where the character-cum-antecedent, integrity and discipline is most important thing. On the basis of the antecedents of the petitioner, if he was not considered to be a fit person to give appointment on the post of Police Sub Inspector, this decision of the respondent cannot be termed to be arbitrary or perverse. There is yet another reason which supports dismissal of this Special Civil Application. The advertisement for recruitment to the post of Police Sub Inspector was made in the year 1991. Select list has been prepared in the year 1993. After about six years of preparation of the select list and after about 3 years and five months of the date of acting upon the waiting list, otherwise also, it is also not desirable to give directions to the respondents to give appointment to the petitioner.

8. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged.

(S.K.Keshote,J.)

(pathan)