

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 23rd October, 2020.**

+ **W.P.(C) 8123/2020**

HASEEN

..... Petitioner

Through: Mr. Prashant Kumar Mittal, Adv.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Gigi C. George, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

1. The petitioner, an Ex-Constable, General Duty (GD) in the respondents No.1,3&5 Sashastra Seema Bal (SSB), has filed this petition impugning the order dated 28th October, 2019 of the respondents SSB of dismissal of the departmental appeal of the petitioner preferred against the order dated 13th August, 2019 of termination of services of the petitioner under Rule 23 of the Sashastra Seema Bal Rules, 2009 (SSB Rules).

2. The reasons for termination of the services of the petitioner are best recorded in the show cause notice dated 24th April, 2019 [Annexure P-8 to the petition] issued to the petitioner, *inter alia* recording that, (i) the petitioner was appointed as a Constable (GD) in the respondents SSB on 15th February, 2013 *inter alia* on the conditions that the verification of

character and antecedents of the petitioner would be carried out from the concerned District Administration immediately after joining the service and that if any declaration given or information furnished by the petitioner for recruitment was found to be false or to have been wilfully suppressed, the services of the petitioner shall be liable to be terminated; (ii) a Memorandum dated 27th June, 2018 was received from the respondents No. 2 and 4 Staff Selection Commission (SSC), to initiate administrative action against the petitioner in compliance of the orders of the Allahabad High Court in W.P. No.48354/2017 titled ***Ajit Singh & 54 Others Vs. Union of India & Ors.***; (iii) it had been informed that the petitioner had less marks in his category and vacancy type and was thus not entitled to be appointed and his candidature should be cancelled; (iv) a Court of Inquiry was ordered and a detailed inquiry to investigate the matter to find out the facts was conducted; (v) the Court of Inquiry submitted a report on 23rd August, 2018, which was put up before the Disciplinary Authority on 28th August, 2018; (vi) the summary trial was held and concluded; (vii) the petitioner, in his application form (pursuant to notification dated 5th February, 2011 of the examination of the year 2011 and pursuant to which the petitioner was appointed) had claimed to be an Other Backward Class from the hill district of U.P. and submitted an OBC Certificate and was found to have obtained higher marks than the other OBC candidates and was selected; (viii) the petitioner had not been declared qualified in the first result declared on 28th November, 2011 but was declared qualified in the revised result declared on 6th July, 2012 in OBC category of Border Area of Uttar Pradesh (UP) State as filled by him in his application form; (ix) later on, it was noticed that the

petitioner does not belong to the border district of State of UP and accordingly action against him was initiated; (x) the domicile district of the petitioner as per the Domicile Certificate produced by the petitioner was not covered under the Border District of UP; (xi) the petitioner was thus to be not treated as qualified under the general vacancy of UP due to less marks; (xii) as per the Domicile Certificate produced by the petitioner also, the petitioner did not belong to the border district; (xiii) the petitioner had furnished false information at the time of his appointment / enrolment in service; and, (xiv) furnishing of false information was actionable under Section 25 of the Sashastra Seema Bal Act, 2007 (SSB Act) read with Rule 23 of SSB Rules.

3. The petitioner, as Annexure P-9 to the petition, has filed the reply dated 6th May, 2019 submitted by him to the aforesaid show cause notice dated 24th April, 2019.

4. We have perused the English translation of the said reply and do not find the petitioner to have in the said reply controverted the reason as stated in the show cause notice. All that the petitioner stated in the reply was that he has assumed the post of Constable (GD) on 15th March, 2013 and had been discharging his duties and responsibilities diligently and successfully and there had been no adverse remarks against the petitioner and that the petitioner had not only filled up the application for participating in the selection process but also submitted all the requisite documents.

5. Once the petitioner, in response to the show cause notice had not controverted the material facts on which his services were sought to be

terminated, no error can be found in the order of termination of his services.

6. We may mention that the petitioner has filed this petition pleading that his services had been terminated because of his having claimed concession in prescribed height i.e. the height as applicable to candidates from border areas but the petitioner has a height much more than that and during the Physical Standard Test no concession was given to him of height on account of being from border area.

7. From the aforesaid, it appears that the petitioner, in the petition also has not made any pleadings with respect to the material allegations as enumerated above and for the reasons of which remaining uncontroverted, his services were terminated.

8. The counsel for the petitioner on enquiry states that he is fully aware of the aforesaid reason for which the services of the petitioner were terminated. However on enquiry whether not the same amounts to an attempt to have notice issued of the petition and having the petition entertained by pleading wrong facts and is an abuse of the process of the Court, he states that opportunity be given to the petitioner to show documents to the effect that the petitioner, even in the place of his domicile, falls in the OBC category.

9. The petitioner having indulged in abuse of process aforesaid, we are not inclined to grant any adjournment as sought by the counsel for the petitioner. We may notice that in the absence of any pleadings rebutting the reason for which the services of the petitioner have been terminated, no purpose would be served by filing documents also. In spite of our repeatedly

asking the counsel for the petitioner to show us a single line in the petition where the petitioner has claimed that he belongs to the OBC category in the district of his domicile also, the counsel for the petitioner has not been able to point out any.

10. No merit is thus found in the petition.

11. Dismissed.

RAJIV SAHAI ENDLAW, J

ASHA MENON, J

OCTOBER 23, 2020

‘gsr’ ..