

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.209 /2023
(Arising out of SLP(C)No. 13829/2022)

K. ASHOK

Appellant(s)

VERSUS

THE STATE OF TELANGANA & ORS.

Respondent(s)

O R D E R

Leave granted.

The appellant is an ex-serviceman who was offered appointment as Reserve Sub Inspector, Special Police. Another ex-service viz. Venkat Krishna was selected on the post of Sub Inspector of Police (Civil) but did not join the post. This was in the process initiated on 18.9.2017 in pursuance to the recruitment notification dated 06.2.2016.

In view of the aforesaid situation, the appellant made a representation on 12.9.2017 to permit him to join the post of the Sub-Inspector of Police (Civil) and that representation was rejected on 27.11.2017 and the appellant was informed that the vacancy would have to be treated as carry forward vacancy and will be filled up in the future. There was some delay on the part of the appellant undoubtedly in approaching the Court as he filed the writ petition in 2019 which was however allowed by the

learned Single Judge in terms of a judgment dated 29.11.2021. The writ appeal preferred against the same was however allowed by the Division Bench of the Court in terms of the impugned judgment dated 27.4.2022 primarily on the ground of delay.

On the special leave petition being filed before this Court, we issued notice recording our reasons on 29.8.2022. The order reads as under:-

"Learned counsel for the petitioner states that the petitioner wrote to the concerned authorities before the training started which arose on account of the fact that one of the persons selected for the post in question had not joined because of another opportunity elsewhere. He thus submits that the petitioner should not have been knocked out only on the ground of delay. He relies upon the judgment of this Court dated 17.08.2017 in C.A. Nos. 10583-10585/2017, Munja Praveen and Ors. vs. State of Telangana and Ors., (2017) 14 SCC 797 wherein it was clarified that after selection of candidates and after issuance of appointment order if the candidate fails to join within stipulated period that vacancy should be notified again"

We called upon the learned counsel for the State to point out any factual inaccuracy in the submissions of the appellant as recorded aforesaid. There is stated to be none. This includes the existence of the vacancies.

Learned counsel for the appellant has also drawn our attention to a recent decision in Civil Appeal No.4735/2022 titled "The Telangana State Level Police Recruitment Board and Anr. Vs. Narimetla Vamshi & Ors."

decided on 21.11.2022 to contend that this issue is no more *res integra* on merits in view of the observations of this Court in the said judgment.

On appreciating the manner of interpreting the rule in question as enunciated in "Munja Praveen and Ors. Vs. State of Telangana and Ors." reported as (2017) 14 SCC 797, it was observed by this Court as under:-

"If a candidate has not gone through the process of recruitment, he has not done what was required to be done by him as set out herein above, it cannot be construed as a vacancy arising which has to be carried forward to the next recruitment process. As to the consequences of the large number of vacancies which have remained on these different accounts, the details of which have been set out herein above, again lend support to this conclusion that a large part of the process is not frustrated by not filling up of the vacancies. Public employment is an important source of employability for young people in the country where we are facing problems of adequacy of jobs; An interpretation of the kind sought to be propounded by the appellants would go against the very ethos of providing public employment to persons eligible and meritorious, by construction of a rule in a manner leaving a large number of vacancies unfilled. This would not be an appropriate interpretation."

We thus have no hesitation in concluding that the impugned order needs to be set aside and the appellant is entitled for the post of Sub-Inspector of Police (Civil). The necessary orders be passed forthwith to facilitate the appellant to join the training for the said post as the training is scheduled for 23.01.2023.

In view of the aforesaid, the appeal is allowed leaving parties to bear their own costs.

.....J.
(SANJAY KISHAN KAUL)

.....J.
(ABHAY S. OKA)

NEW DELHI
09th January, 2023

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13829/2022

(Arising out of impugned final judgment and order dated 27-04-2022 in WA No. 199/2022 passed by the High Court For The State Of Telangana At Hyderabad)

K ASHOK

Petitioner(s)

VERSUS

THE STATE OF TELANGANA & ORS.

Respondent(s)

Date : 09-01-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Mr. L. Narsimha Reddy, Adv.
Mr. Manoj C. Mishra, AOR

For Respondent(s) M/S. Venkat Palwai Law Associates, AOR
Mr. P Venkat Reddy, Adv.
Mr. Prashant Kumar Tyagi, Adv.
Mr. P Srinivas Reddy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending applications, if any, stands disposed of.

(RASHMI DHYANI PANT)
COURT MASTER

(POONAM VAID)
COURT MASTER

(signed order is placed on the file)