A DIRECTOR GENERAL OF POLICE AND ORS.

v.

MRITYUNJOY SARKAR AND ORS.

MARCH 18, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

West Bengal Service Regulations (Part-I) : Rule 34(b).

Service Law—Discharge from service—Validity of—State Armed Police—Recruitment of Constables—Recruitment based on list furnished by C *Employment Exchange—Labour Commissioner's letter stating that list of names forwarded by Employment Exchange was fake—Consequential action of discharge—High Court setting aside order of discharge—Appeal—Held High Court has not committed any error—As foundation for discharge was production of fake list it would cause stigma on respondents for future* D *employment—Principles of natural justice should be followed—Directions for enquiry—Respondents should be given reasonable opportunity—Thereafter appropriate orders should be passed with reasons in support thereof.*

Administrative Law—Principles of natural justice—Applicability of.

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5382 of 1996.

From the Judgment and Order dated 26.3.91 of the Calcutta High Court in F.M.A.T. No. 682 of 1987.

F Dilip Sinha and J.R. Das for the Appellants.

Dr. Shankar Ghosh and Ms. Sarla Chandra for the Respondents.

The following Order of the Court was delivered :

G Leave granted. Heard learned counsel on both sides.

The admitted position is that the respondents came to be appointed by proceedings dated April 25/26, 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 proceed- H ings effective from January 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. 682/1987 by order dated March 26, 1991. Thus this appeal by special leave.

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 November 22, 1985 of the Assistant Inspector General of Police, West Bengal. It is not in dispute that the Commissioner of Labour in his letter dated September 5/7, 1985 had informed the appellants that the list of the names forwarded by the Employment Exchange was fake one and their names were fabricated 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 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.

The appeal is accordingly allowed. No costs.

T.N.A. Appeal allowed.