

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1392/2002

New Delhi this the 21st day of February, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI A.P. NAGRATH, MEMBER (A)

Bhullan Singh Tyagi
S/o Shri Shardha Nand Tyagi
R/o Gram Firozpur, PO Fakarpur
Distt. Baghpat,
Uttar Pradesh ... Applicant

(By Shri Arun Bhardwaj, Advocate)

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1. Commissioner of Police
Police Head Quarters,
I.P. Estate, New Delhi.
2. Addl. Commissioner of Police,
(Armed Police)
Police Lines, Kingsway Camp,
Delhi
3. Deputy Commissioner of Police,
IVth Bn. DAP,
Police Lines, Kingsway Camp,
Delhi , , , , Respondents

(By Mrs. Sumedha Sharma, Advocate)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

Applicant Bhullan Singh Tyagi was appointed as a Constable in Delhi Police on 17.11.1998. He was dismissed from service by the disciplinary authority (Deputy Commissioner of Police) vide order of 19.11.2001 and his appeal even had been dismissed.

2. By virtue of the present application, the applicant seeks quashing of the said order so

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passed with a direction to reinstate him in service with consequential benefits..

3. The sum and substance of the assertions is that the following summary of allegations had been served on the applicant :-

It is alleged that a complaint against you, constable Bhullan Singh Tyagi, No.3163/DAP alongwith PHQ's U.O.No.6526/SIP/PHQ, dated 7-3-2000 has been received from DCP/South Distt., Delhi's office memo, No. 7251-SD dt. 23-3-2000, alleging therein that you constable Bhullan Singh Tyagi, S/o Sh. Shardanand, Village-Ferozpur, P.S.Kekhrea, Distt. Baghpat, got yourself appointed in Delhi Police as constable (Exe.) by producing fake/bogus educational certificates and your father's name is 'SharmaNand'. Sh. Shardanand is your uncle (CHACHA) and he is unmarried. When you failed in High School in the year 1992 and 1993, you reduced your age. You again appeared in High School Examination in the year 1995 and passed the examination. On the complaint *prima facie* enquiry was got conducted and during enquiry it revealed that you constable Bhullan Singh Tyagi have changed your date of birth from 4-6-76 to 4-6-78 and your father's name needs to be verified.

The above act on the part of you constable Bhullan Singh Tyagi, No.3163/DAP amount to gross misconduct and adoption of deceitful means for enrolment in Delhi Police as constable (Exe.) which renders you liable for disciplinary action under Delhi Police (Punishment and Appeal) Rules, 1980."

4. In pursuance of the same, after considering the charge framed on 11.1.2001, which reads almost on identical lines is in the following

(Signature)

words :-

I, Inspector Jan Mohammad, IV Bn. DAP, E.O., charge you constable Bhullan Singh Tyagi, No.3163/DAP (PIS No.28981998) under the Delhi Police (Punishment and Appeal) Rules, 1980 for your gross misconduct in that you got yourself enrolled/appointed as constable (executive) in Delhi Police by producing fake/bogus educational certificates in which you changed your father's name from 'Sharmanand' to 'Shardanand' i.e. actually your father's name is Sh. Sharmanand and Sh. Shardanand is your uncle (CHACHA) & he is unmarried. Secondly, when you had failed in High School examination continuously for two years in 1993 and 1994 you managed to reduce your age by two years by tempering with your actual Date of Birth i.e. 4-6-1976 and making it as 4-6-1978. You again appeared in High School examination in 1995 and got through and on the basis of tempered-with/changed date of birth you got employment as constable in Delhi Police.

The above narrated act on the part of you constable Bhullan Singh Tyagi, No.3163/DAP amounts to gross misconduct and adopting of deceitful means to get employment as constable in Delhi Police which renders you liable for punishment under the Delhi Police (Punishment & Appeal) Rules, 1980."

5. Applicant contends that assertions so made are incorrect and there is no ground to dismiss him from service.

6. In the reply filed, the respondents pleaded that the allegations against the applicant are based on a complaint which was received in the Police Headquarters that the applicant had got himself enrolled as a Constable in Delhi Police by



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producing fake/bogus educational certificate in which he had changed his father's name to "Sharda Nand" which was the name of his uncle. He had failed in High School in the year 1993 and 1994. He managed to reduce his age by two years by tampering with the date of birth. He again appeared in High School examination in the year 1995 and got through on the basis of the tampered date of birth. He had got employment as a Constable in Delhi Police. The enquiry officer had held the applicant guilty of the charge and thereupon when the charge stood proved, the applicant had been dismissed from service.

7. During the course of submissions, the learned counsel for the applicant asserted that no fake certificate has been filed. The matriculation certificate granted to the applicant had been submitted in which the date of birth of the applicant had been recorded as 4.6.1978. Thus the charge as it is, is totally misconceived. As against this, as is apparent from the reply filed which was also the submission of the respondents' learned counsel, the matriculation certificate had been filed. But according to the respondents' learned counsel, the date of birth of the applicant mentioned in the matriculation certificate is incorrect and his correct date of birth is 4.6.1976 and, therefore, the applicant was not eligible to

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be recruited as a Constable.

8. We are conscious of the fact that in the departmental enquiry, the findings that have been arrived at, are by and large taken to be final. Scope for interference is very limited. In judicial review, this Tribunal would be competent to go into the findings if they are totally erroneous or based on no evidence. The Tribunal may also interfere in case no reasonable person would come to such a finding.

9. In the present case before us, the summary of allegations which was also the charge which we have reproduced above indicated that the applicant was told that he got himself enrolled as a Constable in Delhi Police by producing fake and bogus certificate changing his father's name and the date of his birth. He was further told that he tampered with the actual date of birth making it as 4.6.1978.

10. It must be made clear that it was not the charge against the applicant that on the relevant date he was above the age prescribed to be recruited as a Constable. No opinion therefore in this regard is being expressed.

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11. It appears that the authorities proceeded on misconceived notion. Once it is admitted that the date of birth in the matriculation certificate as recorded is 4.6.1978 and the said certificate had been given to him in the year 1995, the charge that he got himself inducted as a Police Constable by producing fake and bogus educational certificate cannot stand scrutiny. The applicant could not imagine at the relevant time that he would be recruited in Delhi Police by what was got done even years before he was inducted in Delhi Police. It is not the case of the respondents that it is unbecoming of a Government servant or that he had committed some act of forgery and, therefore, we will not dwell into that controversy.

12. The fact admitted during the course of arguments that matriculation certificate was the same as a result of which the applicant had passed the examination in the year 1995 and the date of birth mentioned also is the same. In this process he had to produce the correct certificate. He had not forged or faked the same to get enrolled in Delhi Police. We have already noted in the preceding paragraph that when the date of birth had been mentioned in the matriculation certificate, the applicant even had not contemplated that he would apply and get selected in Delhi Police. In that view of the matter, the charge as framed that

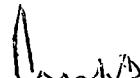
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he got himself enrolled by producing fake or bogus certificate or by tampering with the same to get inducted in Delhi Police must be held to be totally misconceived. On this short ground, therefore, the application is liable to be allowed.

13. By way of abundant caution, we make it clear that nothing said herein should be taken as an expression of opinion if the respondents intend to take any other action referred to above or in accordance with law.

14. For these reasons, we allow the present application and quash the impugned order. The applicant is directed to be reinstated in service with consequential benefits. No costs.

Announced.


(A.P. Nagrath)

Member (A)

/sns/


(V.S. Aggarwal)

Chairman