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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.25/2002

New Delhi this the 4th day of January, 2002.

HON'BLE MR. V.K. MAJOTRA, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Kamlesh Kumar Meena,
S/o Shri Kalu Ram Meena,
R/o Vill & P.O- Jahira,
Tehsil - Samanwas,
District -Sawaimadhopur,
Rajasthan

-Applicant

(By Advocate Shri Sachin Chauhan)

-Versus-

1. Union of India through
its Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.

2. Deputy Commissioner of Police,
2nd Bn., DAP,
Kingsway Camp,
Delhi.

-Respondents

(By Advocate -None)

ORDER

By Mr. Shanker Raju, Member (J):

The applicant who was involved in a criminal case vide FIR No.225/1992 under Section 4/25 of Arms Act at Police Station Dausa, Rajasthan was acquitted of the charge on 24.11.2000 by the Court of Judicial Magistrate Ist. The applicant having failed to disclose the fact of pendency of the criminal case either in the attestation form or in the undertaking, before being deputed to training, has been issued a show cause notice on 4.4.2001 by the Deputy Commissioner of Police as to why his candidature for the post of Constable (Executive) be not cancelled for seeking appointment in Delhi Police by adopting deceitful means. On reply the candidature of the applicant has been cancelled by an order dated 4.9.2001, which is assailed here in this OA.

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2. The learned counsel for the applicant, at the outset, placing reliance on a decision of the Apex Court in Matadin Garg v. State of Rajasthan in SLP No.15234/98 decided on 12.7.91 stated that in the matter of concealment of information if the same is by way of inadvertence and not intentional the cancellation of candidature would not be legal. In this backdrop further placing reliance on a decision of the High Court in Pramod Kumar Rastogi v. Union of India, 1999 IAD (Delhi) 1, contended that on acquittal from the criminal case the stigma attached to the offence goes and in view of the fact that under Rule 6 of the Delhi Police (Punishment & Appeal) Rules, 1980 there is no disqualification for appointment having been involved in a criminal case the action of the respondents is arbitrary and is liable to be set aside. It is further stated that the Rajasthan High Court while dealing with the batch of cases by a judgment dated 8.2.2000 at Annexure A-5 of the OA (colly.) where Rule 13 of the Rules stipulates filling up of the attestation form where one Mangal Singh has not disclosed the factum of criminal case but he was acquitted before filling up the attestation form in view of the contention that it was done by inadvertence the orders have been set aside.

3. We have carefully considered the contentions of the learned counsel for the applicant and perused the material on record. In Delhi Police the recruitment of a Constable (Executive) is conducted as per the provisions of Rule 9 of the Delhi Police (Appointment & Recruitment) Rules, 1980 as well as the Standing Order No.212/89. In the application as well as attestation form a warning is given on the top of the form as to disqualification in case

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any information is concealed or suppressed. The applicant was admittedly facing a criminal trial in the year 1998 when he filled up the application and attestation form. In the reply to the show cause notice there is nothing on record to indicate that the applicant has taken any plea regarding inadvertence in filling up these forms. The applicant who despite aware of the clear warning given in the forms cannot be said to have acted by inadvertence in filling up the attestation form. In our considered view, this concealment was intentional and with a view to seek employment in Delhi Police. Subsequent acquittal from the criminal charge would not be of any avail to the applicant as the law will take its own course. Whatever may be the fact, it is established on record that the applicant has intentionally concealed the fact of his involvement in the criminal case and as such the ratio cited by the applicant's counsel of High Court as well as of the Apex Court would have no application in the facts and circumstances of the present case.

4. In the result, having found no merit in the present OA the same is dismissed in limine, without any order as to costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

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V.K. Majotra

(V.K. MAJOTRA)
MEMBER (A)