

Central Administrative Tribunal
Principal Bench

O.A. No. 745 of 2002

New Delhi, dated this the 4th April, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J)

Rajan Kumar,
S/o Shri Vidya Sagar,
R/o B-75, New Govindpuri,
Chander Nagar,
New Delhi-51 ... Applicant
(By Advocate: Proxy Shri K.C. Dubey for
Shri R.K. Charya)

Versus

1. The Commissioner of Police,
Police Headquarters, MSO Building,
New Delhi.
2. Union of India,
Ministry of Home Affairs,
Govt. of India,
New Delhi.
through its Secretary. .. Respondents.

ORDER

S.R. Adige, VC(A)

Applicant impugns respondents' order dated 5.1.2000 (Anneure P-6) and dated 10.10.2001 (Annexure P-1) and seeks a direction to take him in employment from the date of his acquittal in the criminal case i.e. 18.11.98 with consequential benefits.

2. We have heard applicant's counsel Shri K.C. Dubey.

3. Applicant had earlier filed OA No. 1470/89 challenging the legality of order dated 13.4.89 passed by Commissioner of Police in the purported exercise of powers under Rule 5(1) of the CCS (Temporary Service) Rules, 1965. That OA was disposed of by order dated 13.12.93. A perusal of that order,

a copy of which is on record, reveals that applicant was enlisted as a temporary Constable w.e.f. 14.8.87; his appointment was made on the basis of self declaration subject to the condition that if the facts given by him were found incorrect, his services would be terminated; the verification of his character and antecedents were got done from SHO Krishna Nagar who reported that applicant was arrested in case FIR No.348 dated 1.7.86 under section 61.1.14 Excise Act and the case was pending in the court; applicant had concealed these facts in his application and declaration form which resulted in termination of his service vide order dated 13.4.89.

4. In the aforesaid order dated 13.12.93 disposing of OA No.1470/89, it was directed that if and when applicant was acquitted in the criminal case, his case should be considered for fresh recruitment if he made a representation to that effect, and if he fulfilled the other requirements of the recruitment.

5. Upon applicant being acquitted in the aforesaid criminal case vide judgment dated 18.11.98 (Annexure P-5), applicant represented to respondents for being taken back in service, but the same was rejected by impugned order dated 5.1.2000.

6. Against the aforesaid order dated 5.1.2000 applicant filed OA No.1932/2001 which was disposed of by order dated 7.8.2001. In that order

2

4

it was held that respondents' order dated 5.1.2000 was not speaking order and there was no discussion therein as to the manner in which the judgment of the Hon'ble Supreme Court referred to was applicable to facts and circumstances of the present case. Accordingly by order dated 7.8.2001, respondents' order dated 5.1.2000 was quashed and set aside and respondents were directed to consider applicant's representation and passed a detailed, speaking and reasoned order thereon within 2 months from the date of receipt of a copy of the order.

7. Respondents have now passed a detailed and speaking order dated 10.10.2001 (Annexure P-1) which is impugned in the present OA.

8. A perusal of the aforesaid order dated 10.10.2001 reveals that it is a detailed, speaking and reasoned order which contains cogent grounds as to why respondents have rejected applicant's representation. The aforesaid order also contains a discussion of the ratio of the Hon'ble Supreme Court ruling in Civil Appeal No.13231/96 D.A.D vs. Sushil Kumar and how the same is applicable to the facts and circumstances of the present case. As observed by the Hon'ble Supreme Court in Sushil Kumar's case (Supra), verification of character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was discharged or acquitted in the criminal offences, the same has nothing to do with the question of concealment. What is relevant is the

2

conduct and the character of the candidate to be appointed, and not the outcome of the criminal case. The point in question is not the result of the case but the antecedents and suitability thereof a candidate.

9. In the light of the foregoing discussion contained in respondents' order dated 10.10.2001, which contains cogent reasons as to why the ratio of Hon'ble Supreme Court in Sushil Kumar's case (Supra), is squarely applicable to the facts and circumstances of the present case, we are of the considered opinion that the OA warrants no interference and it is therefore dismissed in limine.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

S. R. Adige

(S. R. Adige)
Vice Chairman (A)

/ug/