

Central Administrative Tribunal, Principal Bench

Original Application No.1932 of 2001

New Delhi, this the 7th day of August, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member(A)

Shri Rajan Kumar s/o Shri Vidya Sagar
R/o B-75, New Gobindpuri, Chander Nagar
New Delhi-51

- Applicant

(By Advocate: Shri K.C. Dubey, proxy for Shri B.S. Charya)

Versus

1. The Commissioner of Police,
Police Headquarters, MSO Building
New Delhi

2. Union of India
Ministry of Home Affairs
Government of India
New Delhi
Through its Secretary

- Respondents

O R D E R (ORAL)

By Mr. S.A.T. Rizvi, Member(A)

The applicant was appointed as a Constable (M.T. Helper) w.e.f 14.8.87. He proceeded on leave in April, 1989. However before he could return from leave, his services were terminated by the respondents vide their order of 13.4.89. The aforesaid orders were passed under Rule 5 (1) of CCS (Temporary Service) Rules, 1965. Since no reason had been shown in the aforesaid order of termination, the applicant tried to ascertain the same informally and came to know that his appointment had been terminated on the ground that the fact of a criminal case under Section 16/1/14 of the Excise Act pending against him had not been revealed by him at the time of his appointment as constable. However, the learned counsel appearing in support of the OA, submits that the applicant was acquitted by the court of competent jurisdiction vide its order dated 18.11.98. This gave him occasion to file a representation

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before the respondents in keeping with the decision rendered by this Tribunal in OA No.1470/89 earlier filed by him on being aggrieved by the impugned order of termination. The Tribunal by its order of 13.12.93 had directed that in the event of the petitioner being acquitted in the aforesaid criminal case, the respondents shall consider his case for fresh recruitment if the applicant made a representation in the matter and provided he also fulfilled the requirements laid down in the relevant recruitment rules.

2. The representation filed by the applicant before ^{the} respondents as above, has been rejected by the respondents on 5.1.2000 by placing reliance on the judgement of the Supreme Court in Civil Appeal No.13231/96 (arising out of SLP (C) No.5340/96) in the case of DAD vs. Sushil Kumar. Since the aforesaid order passed by the respondent authority was not a speaking order, the applicant has filed a further representation on 11.6.2001 seeking review of the aforesaid decision dated 5.1.2000. The aforesaid latest representation has been filed only about two months ago and is still pending consideration with the respondent authority.

3. We agree with the submission of learned counsel for the ~~respondents~~ ^{of applicant &} that the order of rejection dated 5.1.2000 is not a speaking order. The respondent authority has in that order not revealed as to how and in what manner the judgement of the Supreme Court in the case in question will find application in the present case. The respondent authority ^{also} has made no attempt to go into the

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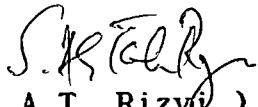
(4)

facts and circumstances of the case considered by Supreme Court and has not clearly shown as to how, having regard to the facts and circumstances of that case, the present case could be decided in terms of the verdict of the Supreme Court. The Tribunal in its order of 13.12.93 had in so many words laid down that the applicant's case for fresh appointment could be considered following his acquittal in the criminal case if he fulfilled the requirements laid down in the relevant recruitment rules. Keeping this in mind, the respondent authority should have tried in the aforesaid order of 5.1.2001 to clearly show as to how the applicant could not be recruited afresh despite securing acquittal in the aforesaid criminal case. The respondent authority should have, in our view ^{& also} tried to show as to what principles had been laid down by the Supreme Court which would stand in the way of the applicant being recruited afresh in the manner directed by the Tribunal. For all these reasons, we are sure in our mind that the respondent authority had failed to pass a speaking and ^a reasoned order.

4. In the circumstances, we are inclined to ^{& take} ~~take~~ the view that the present OA must be disposed of even at this stage with a direction to the respondents. Respondents are accordingly directed to consider the representation dated 11.6.2001 and to pass a speaking and ^a reasoned order keeping in mind the observations made in ~~the~~ ^{the} ~~order dated 13.12.93~~ ^{order dated 13.12.93} and the facts and circumstances of the case decided by the Supreme Court together with the principles laid down by ~~that~~ ^{the} court. The

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respondents shall dispose of the aforesaid representation within a period of two months from the date of receipt of a copy of this order.



(S.A.T. Rizvi)
Member(A)



(Ashok Agarwal)
Chairman

/dkm/