

Central Administrative Tribunal
Principal Bench

O.A. No. 2090 of 1999

New Delhi, dated this the 6 February 2001.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Lokendra Chauhan,
S/o Shri Hem Raj Chauhan
R/o 2364, Luniapura,
Mhow,
District Indore,
M.P. Applicant

(By Advocate: Shri Sakesh Kumar)

Versus

1. Commissioner of Police, Delhi,
Police Headquarters,
New Delhi.

2. Shri S. Nithianandan,
Dy. Commissioner of Police,
Licensing (H.Q.),
Police Headquarters,
New Delhi.

3. Additional Commissioner of Police (H.Q.),
Police Headquarters, Delhi
New Delhi. Respondents

(By Advocate: Shri Rajinder Pandita
(appeared later)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 6.7.99 (Annexure A) and seeks issue of appointment letter to him as Sub-Inspector in Delhi Police.

2. Applicant's case is that when he was a student of Govt. P.G. College, Mhow an incident took place at the college on 21.8.95. The students of the college protesting against the poor bus service for college students, staged a dharna outside

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the college causing a traffic jam. When the police appeared and other Government authorities reached the spot and pacified the students, the dharna was lifted and traffic was allowed to move. A FIR No. 457/95 was registered at P.S. Mhow. Some unknown persons told I.O. that about 15 persons had participated in the dharna/ chakka-jam etc. which also included applicant's name and the I.O. put all the 15 names in the FIR without identifying/verifying the main culprits.

3. Applicant states that after a few months one of his colleagues informed him that he was required in the police station. Upon going there, a police official cautioned him about getting involved in such activities, as otherwise their careers would be jeopardised. Applicant states that he took the advice in good spirit and notwithstanding the fact that he was not involved in the incident, assured the police official that he would desist from such activities. Applicant states that thereupon the officer asked him to sign a paper and then let him go. Applicant states that he did not know the consequence of signing such a paper namely that he had been arrested and released on personal bond. That fact he realised much later when a challan was put

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up before the Additional CJM under Section 341/147 I.P.C. Applicant asserts that he never received any information from the P.S. or from the ACJM or Court.

1. Applicant further states that meanwhile he was selected for the post of S.I. Police on the basis of examination conducted by Staff Selection Commission in 1996 and was called upon to fill up the Bond and character verification form vide letter dated 31.3.97, pursuant to which he executed the aforesaid documents. He states that while executing the character verification form, against the entry as to whether he had ever been arrested he wrote 'No' as he did not even know that in the student agitation he was put to sign a bail bond. He states that he knew about arrest in the ordinary parlance, that a person is arrested by the police and taken to the P.S. or the Court. He states that he was also not aware of the challan as he never received any summons from the police or from the court. He states that he came to know of the same only when he came to Delhi to enquire into the delay in proceeding for training. He was told that his verification form was yet to be received back and was advised to follow it up so that he could proceed for training. He states that while following it up at Delhi Police Headquarters and then at the P.S. he came to know that a charge sheet had been filed against him in connection with the student agitation. He states that he went to the Court and found out the position in the case, in which till then no summon had been issued to him.

He, thereupon appeared before the Court of CJM (without notice/summon) and made a prayer for discharge. (5)

5. Applicant further states that having come to know about the pendency of the case, he wrote to Shri B.C. - Kalra then Asst. Commissioner of Police, Headquarters Office of the Dy. Commissioner of Police on 8.4.98 and 17.10.98 informing him about the true position, but these letters were not acknowledged. Meanwhile he was acquitted by judgment order dated 8.1.98 of CJM, Mhow and indeed his presence at the place of occurrence was not proved.

He states that meanwhile he was selected as S.I. (Executive) in CRPF vide letter dated 7.3.97 but declined to join in view of his selection as S.I. in Delhi Police. He states that in his attestation form for the post of S.I. in CRPF he had clearly mentioned about his trial and acquitted in the case regarding the student agitation.

6. He states that although he had informed Respondent No. 3 about the pendency of the Court case, to his utter surprise he received the show cause notice dated 18.3.99, and despite his reply to the same, in which he had informed respondents of his acquittal, they issued the impugned order dated 6.7.99 cancelling his candidature.

7. Respondents in their reply acknowledge receipt of two representations submitted by applicant. They state that the same were examined,

and it was decided to dispose them of after receipt of character verification report from D.M. Indore (M.P.). They state that from the character verification report it was noticed that applicant had been arrested in FIR No.457/95 u/s 341/147 IPC dated 20.12.95 P.S.Mhow, District Indore, MP and was released on Muchalka but the fact had not been disclosed by applicant at the time of filling up his attestation form, in relevant columns 12(1) and 12(b). He thus knowingly concealed the fact of his involvement in the aforesaid case and thereby attempted to secure employment by adopting deceitful means, and for this reason his candidature was cancelled by impugned order dated 6.7.99 after giving him show cause notice. (b)

8. Applicant in his rejoinder has emphasised that he submitted the two representations well before the issue of the show cause notice, and must be read as part of the character verification form.

9. We have heard both sides and have considered the matter carefully.

10. It is true that ^{the} attestation form carries a specific column where ^{the} candidate has to declare whether he is involved in a criminal case. Applicant in the relevant column of the attestation form admittedly did not mention his involvement in Case FIR No.457/95, although there is clear ^{super} script on the body of the attestation form as well as application form that if any wrong statement or concealment of fact are found at any time, the concerned candidate's service would be liable to be terminated by the respondent.

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11. In the present case, however, what goes in favour of the applicant is the fact that having come to know about the pendency of the case he wrote to the concerned officer on 8.4.98 and 17.10.98 about the same which respondents themselves acknowledge. These two representations were sent by the applicant well before the issue of the show cause notice and support applicant's contention that as soon as he came to know about the case, he took steps to inform the authorities.

12. In very similar circumstances, the Hon'ble Supreme Court in Commissioner of Police, Delhi & Anr. Vs. Dhaval Singh 1999(1) SCC 246 (Civil Appeal No. 2537/98 decided on 1.5.98) had held that where there was an omission on the part of the respondent to give information in the relevant column of the application form about the pendency of the criminal case against him, which was later on corrected by him voluntarily, the cancellation of his candidature was without application of mind and without considering all the materials on record.

13. Furthermore, in Writ Petition No. 419/99 R.R. Yadav Vs. Kendriya Vidyalaya Sangathan & Others relied upon by applicant, the Madhya Pradesh High Court in its order dated 25.7.2000 under somewhat similar circumstances had struck down the CAT Jabalpur Bench's order dated 15.7.99 in OA No. 150/99 and had directed that the petitioner Ram Ratan Yadav would be deemed to be in service and entitled to consequential benefits. In that case also petitioner Shri Yadav had failed to mention in his attestation form that a criminal case was pending against him in a Court of Law.

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14. On behalf of applicant it has also been urged that as he was acquitted in the present case against him, its non-mention in the attestation form should not be held against him. This particular argument does not carry much weight in the light of the Hon'ble Supreme Court's observations in Delhi Administration, Delhi Vs. Sushil Kumar (C.A.No.13231/96) wherein it had been held that the discharge or acquittal of the criminal case was of no relevance in such cases but in the light of the Hon'ble Supreme Court's ruling in Dhaval's case (*supra*) in which the judgment of Sushil Kumar (*supra*) has been referred to, as well as the judgment in Ram Ratan Yadava (Supra), we hold that applicant should not be penalised so severely as to deny him appointment as Sub-Inspector of Police merely because he failed to mention the fact of his involvement in FIR No. 457/95, which omission was later on voluntarily corrected by him by furnishing the relevant information to the authorities well before the issue of the show cause notice on the basis of which the impugned order dated 6.7.99 (*Annexure-A*) was passed.

15. In the result, the OA succeeds and is allowed. The impugned order dated 6.7.99 is quashed and set aside and the respondents are directed to consider him for appointment if he is otherwise eligible and qualified for the same. These directions should be implemented within 3 months from the date of receipt of this order. No costs.

A. Vedavalli
(DR.A. VEDAVALLI)
MEMBER (J)

Anfolgi
(S.R. ADIGE)
VICE CHAIRMAN (A).