

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1152 of 1998

New Delhi, this the 17th day of March, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE SHRI N. SAHU, MEMBER (A)

Shri Mukesh Kumar, S/o Shri Gori Lal
Sharma, C/o Shri Shanti Prakash,
Patiala House, New Delhi

-APPLICANT

(By Advocate: Shri D.S. Mahendru)

Versus

1. Govt. of N.C.T. of Delhi, through
Chief Secretary, Old Secretariat,
5-Sham Nath Marg, Delhi-110054.

2. Commissioner of Police, Police Head
Quarters, I.P. Estate, New Delhi.

-RESPONDENTS

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

By Reddy, J.-

Heard the learned counsel for the applicant
and the respondents.

2. The applicant submits that he had applied for
the post of Constable in Delhi Police during 1994. He
was declared successful in the written test. He was
called for interview and in the interview, the applicant
was not selected. The only ground taken in this O.A. is
that he was not given three marks for having participated
in the Sports though as per the rules, he was entitled
for three marks. It is his grievance that his
certificate was not taken into consideration at all and
if three marks were to be given to him, he would have
been selected. It is also pertinent to notice that the
applicant had filed earlier O.As. Nos. 615/97 and 2654/97
and a Contempt Petition No. 376/97 questioning his

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non-selection as Constable in Delhi Police during the same selection.

3. The respondents filed the counter stating that the O.A. is barred by resjudicata as the applicant filed other OAs questioning the same selection, which were dismissed. It was also stated that the applicant had neither mentioned anything in the application about sports/games nor submitted or attached any certificate with the application form. It is further stated that the applicant has written 'X' in column 14 regarding sports and games. Hence it was stated that the grievance of the applicant was wholly baseless. In the additional affidavit filed by the respondents, they have further stated that the sports certificate now attached to the O.A. must be a bogus certificate as the applicant himself has produced a certificate from Varanasi Sanskrit Mahavidyalaya (a University) as having studied in the said University in 1993 and the present sports certificate also shows that he was a student and participated in the School sports in the same year of 1993.

4. We have perused the impugned order. This order was passed in response to a representation of the applicant dated 15.4.98. In the said order, it was stated that the applicant had neither mentioned about sports achievements nor attached any such certificate with the application form. Hence the applicant is not entitled for any additional marks on the basis of sports certificates at this stage. As it was clearly stated that the applicant had not mentioned about the alleged sports and he also did not attach any sport certificate the authorities could not consider his eligibility of

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sports to grant him three marks even assuming that the applicant is entitled for 3 marks on sports quota. It was, however, stated in the counter that under the rules, the applicant was not entitled for three marks against the sports certificate attached by him.

5. It is also significant to notice that the applicant made the grievance of sports eligibility in his application dated 15.4.98 when the selection was made in January, 1994. In our view, therefore, the application is also barred by limitation. In view of the clear averments made in the counter affidavit it has to be taken that the applicant failed to mention any thing in the application with regard to his alleged sports eligibility or did not attach any sports certificate. When that is the case, the applicant cannot make any grievance about his sports qualification.

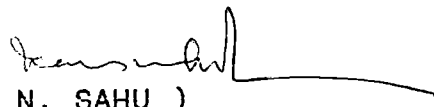
6. In view of the earlier OAs filed by the applicant, questioning the same selection, the OA as contended by the learned counsel for the respondents, should be dismissed also on the ground that the judgments in the earlier OAs operate as res judicata. It is contended by the learned counsel for the applicant that in the earlier OAs he had raised different grounds than what have been taken in this case. This contention is wholly misconceived. The bar of res judicata clearly applies in this case. The parties and the subject matter are the same in the earlier OAs and this OA. On merits the Tribunal dismissed the earlier OAs and the selection was held valid. The applicant cannot, therefore, be permitted to reagitate the question of validity of the same selection on different grounds. We therefore uphold the objection of the respondents.

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7. Further, the applicant has stated in paragraph 7 of the OA - against the "matters not previously filed or pending" - that he had not filed any other or similar OA or writ petition before this Court or any other Court. This is obviously a false statement. Learned counsel fairly concedes that it is so. He has not mentioned in the OA the earlier OAs with regard to the same selection and their rejection. This is a clear case of suppression of facts and trying to mislead the Court. The applicant filed the University certificate as well as sports certificate as having participated in school sports and in the University in the same year of 1993. The contention that this sport certificate should be a fake certificate appears to be justified. One cannot read in the University without passing the school final exams. One cannot participate in the school as well as in the University simultaneously during the same year.

8. In view of the foregoing discussion the OA is dismissed with exorbitant costs of Rs.5,000/- (Rs. Five thousand only). The said amount is directed to be paid to the Secretary, CAT Bar Association to be spent on Legal Aid.


(N. SAHU)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

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