

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 365/98

199

T.A.No.

DATE OF DECISION : 9.2.1999

Zile Singh

....Petitioner

Shri P.P. Khurana

....Advocate for the
Petitioner(s).

VERSUS

Commr. of Police & Anr.

....Respondents.

Shri Ajesh Luthra proxy for
Mrs. Jyotsna Kaushik.

....Advocate for the
Respondents.

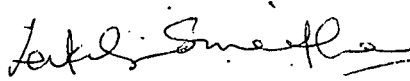
CORAM

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The Hon'ble Shri N. Sahu, Member(A).

1. To be referred to the Reporter or not? YES.

2. Whether it needs to be circulated to other
Benches of the Tribunal? No.


(Smt.Lakshmi Swaminathan)
Member(J)

Central Administrative Tribunal
Principal Bench

O.A. 365/98

New Delhi this the 9th day of February, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Shri N. Sahu, Member (A).

Zile Singh,
S/o Shri Balbir Singh,
R/o PZ-B-72, Block-III,
Prem Nagar, Nazafgarh,
New Delhi..

...Applicant.

By Advocate Shri P.P. Khurana.

Versus

1. Commissioner of Police,
Police Headquarters,
IP Estate, New Delhi.
2. Addl. Commissioner of Police,
North West District,
New Delhi.

...Respondents.

By Advocate Shri Ajesh Luthra proxy for Mrs. Jyotsna
Kaushik.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member (J).

The applicant is aggrieved by the order passed by the respondents dated 18.2.1997 terminating his services as Constable under the provisions of Rule 5(1) of the CCS (Temporary Services) Rules, 1965. The applicant had been declared qualified for recruitment to the post of Constable (Executive) in the written test held on 5.11.1995 and the interview held on 13.12.1995. He was directed to report for basic training course which commenced on 15.7.1995. While he was undergoing the basis training course, he was served with the impugned order dated 18.2.1997. He has claimed that this order is in violation of the principles of natural justice as no show cause notice was issued to him before adverse action has been taken against him. Shri P.P. Khurana, learned counsel for the applicant, has submitted that since the impugned

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order is in the nature of a penalty even though it purports to be an innocuous order it was necessary for the respondents to inform the applicant the reasons why his appointment was to be terminated before passing the order.

2. The respondents have submitted that the applicant joined Delhi Police on 18.7.1996 without the police verification report. They have not denied that he had been sent for basic training course for recruitment as Constable. They have submitted that on receipt of the police verification report from D.C. Rewari by his letter dated 8.1.1997 it was found that the applicant was involved in case FIR No. 172/92, under Sections 148, 149 and 324 IPC which is still pending in the criminal Court. According to them, on perusal of the Application Form and Attestation Form submitted by the applicant they found that he had not mentioned the fact that a criminal case was pending against him as he has answered in the negative against the relevant questions. Shri Ajesh Luthra, learned proxy counsel for the respondents has submitted that both in the Application Form as well as in the Attestation Form, it is clearly mentioned that if any information is found to be false, the applicant's service is liable to be terminated forthwith.

3. The respondents were directed to produce the relevant records, including the aforesaid Application Form and Attestation Form submitted by the applicant which has also been shown to the learned counsel for the applicant. To question (b) in the Application Form, against the query whether at that time there was any criminal case pending against him, the

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applicant had replied in the negative on 26.6.1995. His answer to a similar question in the Attestation Form was also in the negative which he had submitted on 22.4.1996.

4. Shri P.P. Khurana, learned counsel for the applicant, has relied on the order of the Tribunal in **Raj Kumar Vs. Union of India & Ors.** (OA 2209/93 dated 27.1.1995 copy placed in the file). He has relied on certain observations of the Tribunal and submits that it is recognised that it is a part of human tendency to conceal one's defects and to highlight his qualities which may not be purposeful. In that case it was held that since the parties were coming to a compromise in the village case, the applicant may not have mentioned the fact that there was a criminal case pending against him which ultimately resulted in acquittal. It was also noted that at that time the applicant had already been acquitted from the criminal case registered against him and so no case was pending against him in the court. Learned counsel has submitted that similarly the termination of the applicant's services should be quashed and set aside and he should be allowed to continue in service as Constable in Delhi Police. Shri Ajesh Luthura, learned counsel, on the other hand, has relied on a more recent order of the Tribunal in **Subodh Singh Vs. Union of India & Amr.** (OA 1667/97) decided on 5.12.1997, in which one of us (Smt. Lakshmi Swamianthan, Member(J)) was also a Member. (copy placed on record). Another contention of Shri P.P. Khurana, learned counsel, is that the reasons for termination of applicant's services have only been disclosed by the respondents in their reply but the impugned order itself does not contain any reasons. He has, therefore, vehemently

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submitted that a show cause notice was absolutely necessary in the present case before the respondents could terminate the applicant's services.

5. In the facts and circumstances of the case, we do not see force in the submissions made by the learned counsel for the applicant that a show cause notice is a must in the present case. This issue has also been dealt with in the aforesaid order of the Tribunal dated 5.12.1997 in **Subodh Singh's case (supra)** after referring to the observations of the Supreme Court in **Commissioner of Police, Delhi and others vs. Virender Pal Singh** (Civil Appeal No. 5510/97) dated 11.8.1997. In **Virender Pal Singh's case (supra)**, the respondents had alleged that the applicant had deliberately left blank the column relating to whether any criminal charge was pending against him which had mislead them in selecting him for the post of Constable. In the peculiar facts and circumstances of the case, the Supreme Court had disposed of the appeal by stating that "without laying down any law, in the facts of the case, we are of the view that in all fairness a show cause notice should be given" and set aside the Tribunal's order. In **Subodh Singh's case (supra)** it was also noticed that the applicant had categorically stated 'No' to the question in Para. 11 relating to cases pending against him at the time of filing the Application Form. It was further noticed that a warning had also been given to the candidates stating inter alia that any false information given in the proforma or suppression of any true information would amount to ineligibility of the candidate and for termination of his service. The facts are similar in the present case regarding the question regarding the relevant questions and answers in the Application and Attestation Forms submitted by the

applicant as well as the warning which is printed in the Forms. Therefore, the contention of the learned counsel for the applicant that the applicant was not aware that the lapse on his part in not giving correct answers to the relevant questions in the Forms will amount to his being declared ineligible and his services liable to be terminated forthwith, is not tenable. The further contention of the learned counsel for the applicant that the applicant should have been given a show cause notice in the circumstances of the case is also untenable. **Subodh Singh's case (Supra)** had also followed the decision of the Supreme Court in another case in **Delhi Administration Vs. Sushil Kumar** (Civil Appeal No. 13231/96) decided in October, 1996. In this case, the Supreme Court has held as follows:

"...It is seen that verification of the 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 physically found fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences. The consideration relevant to the case is of the antecedents of the candidate. Appointing Authority, therefore, has rightly focussed this aspect and found him not desirable to appoint him to the service".

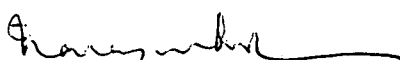
(Emphasis added)


6. In view of the aforesaid judgements of the Supreme Court followed in **Subodh Singh's case (supra)**, the judgement relied by the applicant in **Raj Kumar's case (supra)** will not assist him. We are of the view that the applicant in the

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present case has deliberately tried to give false information by suppressing the relevant information of his involvement in a criminal case in both the Application and Attestation Forms which are very material to his being considered for appointment as Constable in Delhi Police. As held by the Hon'ble Supreme Court, the verification of the character and antecedents of the selected candidates for a post in a disciplined force is very material. The applicant having been warned of the consequences of either giving false information or suppressing ^{the} relevant information had, therefore, sufficient notice and the appointing authority cannot, therefore, be faulted in any manner ~~for his action~~ in issuing the impugned termination order. In the circumstances of the case and for the reasons given in **Subodh Singh's case** (supra), we reject the contention that a further show cause notice had to be given as no prejudice has been caused to the applicant (See the observations of the Supreme Court in **Managing Director ECIL, Hyderabad Vs. B. Karunakar** (JT 1993 (6) SC 1)). We are also bound to follow the judgement of the Supreme Court in **Sushil Kumar's case** (supra). Therefore, considering the facts of the case, it cannot be held that the competent authority has in considering the suitability of the applicant to continue in service as Constable acted in an arbitrary, ^{unwarranted} or unreasonable manner which justifies any interference in the matter.

7. In the result, we find no merit in this application. O.A. is accordingly dismissed. No order as to costs.


(N. Sahu)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'