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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA.No.1150 of 1996

Dated New Delhi, this 16th day of December, 1996.

Hon'ble Shri A. V. Haridasan, Vice Chairman(J)
Hon'ble Shri K. Muthukumar, Member(A)

Vivek Kumar Chawla
R/o DG-II/16/162A
Vikaspuri
NEW DELHI-110018.

... Applicant.

By Advocate: Shri A. K. Behera

versus

Union of India, through

1. Ministry of Information and
Broadcasting
Shastri Bhawan
NEW DELHI.

2. Director General
Doordarshan
Mandi House
NEW DELHI.

3. Director
Doordarshan Kendra
Parliament Street
NEW DELHI.

... Respondents

By Advocate: Shri J. Banerjee, proxy counsel
for Shri Madhav Panikar.

O R D E R (Oral)

Shri A. V. Haridasan, VC(J)

This application is directed against the impugned order dated 7.1.1995 of the Director Doordarshan Kendra, New Delhi cancelling the offer of appointment to the post of Floor Assistant in favour of the applicant on the ground that having suppressed the material information of prosecution pending against the applicant in the Attestation Form and proforma, he has rendered himself unfit

for government service. The facts which are not in dispute are that the applicant who was rendering service as Casual Floor Assistant, was pursuant to the scheme for regularisation of Floor Assistant in Doordarshan Kendra screened and directed to submit a proforma duly attested answering certain queries that on 22.10.1994 the applicant filled the proforma answering, inter alia, the queries which are furnished below:-

- "(a) Have you ever been arrested ?
- (b) Have you ever been prosecuted ?
- (c) Have you ever been kept under detention?
- (d) Have you ever been bound down ?
- (e) Have you ever been fined by a Court of Law ?
- (f) Have you ever been convicted by a Court of Law for any offence ?
- (g) Have you ever been debarred from any University or any other educational authority/institution ?
- (h) Have you ever been debarred disqualified by any Public Service Commission/Staff Selection Commission for any of its examination/Selection ?
- (i) Is any case pending against you in any Court of Law at the time of filling up this Attestation Form ?..."

In the negative, that the applicant, for the first time, received a notice from the Metropolitan Magistrate New Delhi issued on 28.10.1994 in the 1st week of January 1995 in connection with FIR.No.172/92 that the applicant, consequent on the filling of the Attestation Form, was appointed as Floor Assistant on 13.10.1994 on which post he joined on the same date and that the impugned order 7.1.1995 was passed without issuing even a show cause notice to the applicant and without giving him an opportunity of being heard. The applicant assails this order as

violative of principles of natural justice and prays that the respondents may be directed to reinstate him in service with all consequential benefits.

2. The respondents in their reply seek to justify the impugned order on the ground that on verification with the Police, the respondents came to know that the applicant was prosecuted for offence under section 406 IPC on the basis of FIR No.172/92 lodged on 7.4.1992 and that as this information was suppressed by the applicant in the Attestation Form and the Declaration Form signed by him on 7.11.1994 and that in accordance with what was stated in the Attestation Form that if any information furnished to be found incorrect, the offer of appointment was liable to be withdrawn.

3. As the issue involved in this application is quite simple and the need to dispose of this application as early as possible is felt not only by the Tribunal but also by the counsel on either side, we proceed to dispose of this application at the admission stage itself.

4. The sole ground on which the offer of appointment has been cancelled by the impugned order and the applicant rendered unfit for government service, is that in the Attestation Form the applicant had suppressed the information that there was a case pending against him. The applicant has, in the application, categorically

denied any knowledge of the pendency of any case against him, on the date on which he signed and submitted the Attestation Form i.e., 22.10.1994. Annexure A-4 is the copy of the notice received by the applicant from the Metropolitan Magistrate's Court directing the applicant to appear before that Court on 14.2.1995 in connection with a case in FIR No.172/92. The notice was signed by the Metropolitan Magistrate for receipt of the applicant only on 28.10.1994 and there is a categorical averment in the application that this notice was received by the applicant only in the last week of January 1995. The averment in the application that the notice was received by the applicant only in the last week of January 1995, is not denied nor is there anything on record to show that even on the date on which the applicant filled the Declaration Form i.e., on 7.11.1994, the applicant had any knowledge about FIR No.172/92 or the case arising therefrom. Therefore, there is absolutely nothing on record to establish that the applicant suppressed any material fact in the Attestation Form signed and submitted by him on 22.10.1994. The foundation of the order cancelling the appointment of the applicant is that he suppressed material information in the Attestation Form signed by him on 22.10.1994. What is stated above clearly establish that there is no basis for

this conclusion by respondents. Even if the applicant suppressed any information, if the respondents decided to cancel the appointment already made, they should have given a notice to the applicant to state his case as to whether he had suppressed or not suppressed any material fact.

Passing an order declaring that the applicant is unfit for government service and removing him from the post on which he had already been appointed without giving him an opportunity of being heard, is opposed to all canons of law and principles of natural justice. In the result, the impugned order of the respondents is unjust, illegal and unsustainable in law. The impugned order dated 7.1.1995 is, therefore, set aside and the respondents are directed to reinstate the applicant in service with all consequential benefits like continuity of service and backwages. It may not be out of place to mention here that even FIR.No.172/92 has been quashed by an order of the High Court in criminal miscellaneous petition No.365/95 dated 27.9.1995, a copy of which is annexed to the application as Annexure A-6. There shall be no order as to costs.


(K. Muthukumar)
Member(A)

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(A. V. Haridasan)
Vice Chairman(J)