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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.1851/1996

New Delhi this the 07th day of March, 2000.

**HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)**

Chander Pal S/O Randhir Singh,
R/O Vill. & P.O. Tikri,
Distt. Meerut (UP).

... Applicant

(Applicant in person)

vs.

1. National Capital Territory of Delhi
C/o Secretary, Secretariat,
Delhi.

2. Commissioner of Police,
Police Headquarters,
I.P.Estate, New Delhi.

3. Additional Commissioner of Police,
AP&T, Delhi.

4. Senior Additional Commissioner
of Police, AP&T,
Delhi.

... Respondents

(By ASI Jai Prakash, Departmental Representative)

O R D E R (ORAL)

Shri Justice Ashok Agarwal,

By the present O.A. applicant seeks to impugn an order passed by the Senior Additional Commissioner of Police on 22.3.1996 whereby the initial order passed by the disciplinary authority on 11.4.1994 removing the applicant from service has been maintained and the appeal of the applicant has been dismissed.

2. Brief facts leading to the passing of the impugned orders are as under -

A special recruitment for the post of constables in Delhi Police was held at Saharanpur and Rampur (UP) in the month of May, 1987. For the said recruitment, vacancies

were notified to the employment officer, Saharanpur and Rampur. In these notifications a condition was imposed that candidates should have been registered with the employment exchange at least one month before the cut off date, in this case, 11.5.1987. Applicant and several other candidates applied and were selected and appointed as constables in Delhi Police. It was thereafter reported that various candidates had submitted false and fabricated employment exchange cards and had procured employment based on the said cards. Enquiries were accordingly made with the employment exchange. The same revealed that various candidates had submitted false and fabricated cards in order to obtain employment. As far as the applicant is concerned, the employment exchange card which he produced showed that he had been registered as on 11.3.1987. The card bore the number 2924/87 dated 11.3.1987. When enquiry in respect of the same was made with the district employment officer, Saharanpur, the said employment officer, after verification, vide his letter dated 21.11.1987 reported that the date of registration of the applicant was 11.5.1987 and not 11.3.1987. Since it was found that applicant had secured employment by adopting unlawful and deceitful means as a constable in Delhi Police, his services were, by an order issued on 19.4.1988, terminated. Applicant along with others impugned the aforesaid order by filing O.A. No.496/89. This Tribunal by a judgment and order passed on 27.5.1992 set aside the order of termination on the ground that the same had been passed in breach of principles of natural justice. Liberty was, however, given by the Tribunal to the respondents for taking action against the applicant in accordance with law.

[Signature]

3. Disciplinary proceedings were thereafter initiated against the applicant by an order passed on 15.10.1992. In the disciplinary proceedings, the disciplinary authority by an order passed on 11.4.1994 held the aforesaid charge proved against the applicant. Applicant was directed to be removed from service. Applicant carried the matter to the appellate authority in appeal. The appellate authority without going into the merits, dismissed the appeal on the ground that the same was barred by limitation. Applicant once again approached this Tribunal by filing O.A. No.1457/95. By an order passed on 21.12.1995 aforesaid order of the appellate authority was set aside and the matter was remanded back to the appellate authority ^{with a direction} to condone the delay in filing the appeal and to decide it on merits. The appellate authority has thereafter considered the appeal on merits and by the impugned order passed on 22.3.1996 has affirmed the order of the disciplinary authority passed on 11.4.1994. Aforesaid order passed by the appellate authority on 22.3.1996 as also the order passed by the disciplinary authority on 11.4.1994 are impugned in the present O.A.

4. Aforesaid facts show that the present matter has had a chequered history. This is the third occasion that the applicant has approached this Tribunal.

5. We have considered the entire material on record and we find that no just and sufficient cause is made out for interference with the orders impugned in the OA. It has, inter alia, been contended on behalf of the applicant that constables who were similarly placed as the applicant have been dealt with differently by the appellate authority. Reliance is placed on an order passed in

respect of constable Harender Kumar. The appellate authority by its order passed in that case on 16.8.1994 concluded as funder :

"In view of the above discussion and the decision taken in the cases mentioned above, it will be unjust to remove the employee from service only on ground of defect in the Employment Exchange card, who has already undergone the pangs of arduous training and has already reached a stage of overage for Govt. service. I, therefore, accept the appeal submitted by Ex. Const. Harender Kumar No.9961/DAP/3585/DAP. He is hereby reinstated in service with immediate effect. The intervening period between the date of his dismissal i.e. from 20.5.1994 and the date on which he rejoins his duty will be treated as leave of the kind due."

Based on the aforesaid order, applicant claims that he cannot be treated differently; he is entitled to the same treatment meted out to the aforesaid constable.

6. In our judgment, the aforesaid decision of the appellate authority cannot act as a binding precedent on subsequent appellate authorities, or at least as far as this Tribunal is concerned. One cannot set up Article 14 to perpetuate a wrong. If one constable has been unlawfully or unduly reinstated despite his having been found to have utilised a false and bogus employment registration card, the same illegality cannot be permitted to be perpetuated. Aforesaid contention based on the principle of equality enshrined in Article 14 is accordingly rejected.

7. As far as merits of the matter are concerned, reliance is placed on the statement of Smt. Dayawati Choudhary, district employment officer, Saharanpur (UP). In her statement, she has stated that the applicant had been registered with the employment exchange on 11.5.1987 and not on 11.3.1987 as shown in the card submitted by the applicant. It is thereafter pointed out that in the cross

M.J.

examination she has conceded that it was possible that the aforesaid change of date might have been brought about by one of the clerks of the employment exchange. Aforesaid contention was also raised during the departmental proceedings. The same has been squarely dealt with by observing that though the aforesaid possibility cannot be ruled out, it was the applicant who was interested in submitting false certificate as he was keen to secure employment as a constable. The production of the aforesaid false employment card itself amounts to misconduct. *We find no fault with the aforesaid reasoning.* Findings of the disciplinary authority as also the appellate authority, we find, are based on cogent evidence on record. Aforesaid authorities are the fact finding authorities. It is impermissible for us sitting in the Tribunal to re-assess the evidence and come to a conclusion other than the one which has found favour with the said authorities. As far as the penalty which is imposed is concerned, it has to be remembered that we are concerned with the police force, ^{a disciplined force} which is entrusted with the duties and powers ^{carrying} of high integrity; they are entrusted with the duty of maintaining law and order. If such officers are themselves found to be using deceitful means, the very pillar on which the police force rests will be in jeopardy. In the circumstances, we find that the penalty imposed is ~~also~~ just and proper.

8. Present O.A., in the circumstances, we find, is devoid of merit. The same is accordingly dismissed. There shall, however, be no order as to costs.

V. K. Majotra
(V. K. Majotra)

Member (A)

Ashok Agarwal
(Ashok Agarwal)
Chairman

/as/