

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2661 of 1996

New Delhi, this 28th day of April, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

6

Ex-Constable Kirpal Singh  
S/o Shri Chet Ram  
R/o H.No.415 Tuklakabad P.S.Okhla  
Delhi. ...Applicant

(By Shri Shankar Raju, Advocate)

versus

Union of India, through

1. Through its Secretary  
Ministry of Home Affairs  
North Block  
New Delhi.
2. Sr.Addl.Commissioner of Police  
Armed Police and Training  
P.H.Q. M.S.O. Building  
New Delhi.
3. Deputy Commissioner of Police  
1st Bn D.A.P.  
New Police Lines  
Kingsway Camp  
Delhi-9. ...Respondents

(By Ms Sumedha Sharma, Advocate)

Order (oral)

By Reddy, J.

The applicant who was appointed as a Constable in Delhi Police, was alleged to have suppressed the fact regarding his arrest/involvement in the criminal case regarding FIR No.341/90 dated 29.12.1990 Tughlakabad, P.S. Okhla, to the senior officers of the department at the time of appointment in the Delhi Police on 7.8.1991. It was also alleged that he failed to inform the department about the arrest and involvement in the criminal case till date. A departmental enquiry was held against him and



7

considering the evidence on record the enquiry officer found that the charge was made out. The disciplinary authority agreeing with the findings of the enquiry officer imposed the punishment of dismissal from service by the impugned order dated 1.5.1996. The appellate authority upheld the order of the disciplinary authority by order dated 21.8.1996. These orders are in challenge in this OA.

2. The learned counsel for the applicant submits that as the applicant was arrested in regard to the criminal case prior to his appointment as a police officer and as no provision of law enjoins that his arrest, before he was appointed, should be disclosed to the superiors, the impugned order is liable to be set aside. It is further contended that even after he became a police officer, in the absence of any rule in the Delhi Police (Punishment and Appeal) Rules, it was not necessary for the applicant to disclose about his arrest prior to his appointment. The learned counsel therefore raised these two grounds in order to challenge the impugned order.

3. The learned counsel for the respondents Ms. Sumedha Sharma however submits that as a police officer the applicant should not act unbecoming of a government servant and after he

QAB

9

was appointed he should have immediately disclosed the fact of his involvement in police case to his superior officers. The CCS(Conduct)Rules mandate a government servant to do nothing which is unbecoming of a government servant. Hence it was obligatory on the part of the government servant to have disclosed the same. The learned counsel therefore supports the impugned order.

4. We have given careful consideration to the points raised in the case.

5. A perusal of the enquiry officer's report makes it clear that the applicant was arrested in FIR No.341/90 dated 29.12.1990 Tughlakabad, Okhla P.S. on 7.1.1991 and was released on bail on the same date. The applicant admitted this fact. He has also admitted that the case was pending trial and now it is stated by the learned counsel for the applicant that the case is still pending trial. The learned counsel for the applicant contends that this is not a case where the applicant had suppressed the facts at the time of making his application for appointment. He filled up his application in December 1989 and the Attestation Form in September 1990. By that time he was not arrested and no case was registered against him. Hence the applicant cannot be found fault for his arrest subsequent

CAN

9

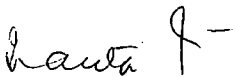
to the above events and before he was appointed. The learned counsel for the applicant places reliance upon OM dated 39/59/54-Est(A) dated 25.2.1955 where it was stated that it is the duty of the government servant who may be arrested to intimate the fact of his arrest to his superior officer promptly and failure on the part of the government servant to inform the same would be regarded as suppression of material and would render him liable to disciplinary action. This OM has no application in regard to the applicant as the arrest was made prior to his appointment and by that time he was not a government servant. The learned counsel for the respondents however, submits that it was the duty of the applicant to have informed about his arrest after he was arrested and at the time of his appointment failing which it would be violating the CCS(Conduct)Rules.


6. It is admitted that the CCS(Conduct)Rules,1964 are applicable to the police officer. No doubt it is true that the above OM cannot be pressed against the applicant as by the date he was arrested, the applicant was not in government service. But as per Rule (3) of the CCS (Conduct)Rules,1964, it is obligatory on the part of the government servant to maintain absolute integrity, devotion to duty and do nothing which is unbecoming of a government

*CA*

servant. In our view, the suppression of the fact about the applicant's arrest and involvement in the criminal case after he was appointed and at the time of appointment in police service, will be derogatory to the maintenance of integrity and unbecoming of a government servant.

7. In the circumstances, it cannot be said that the applicant had not committed misconduct unbecoming of a government servant and was rightly found by the enquiry officer the charge as proved which has been agreed to by the disciplinary authority who imposed the punishment by the impugned order. The OA therefore, fails and is accordingly dismissed. No order as to costs.

  
(Mrs. Shanta Shastri)  
Member(A)

  
(V. Rajagopala Reddy)  
Vice Chairman(J)