

Central Administrative Tribunal, Principal Bench

Original Application No. 140 of 1997

New Delhi, this the 28th day of June, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

(7)

Ex. Constable Baljeet Singh son of Shri Baroo
Ram r/o Village and P.O. Ajaile, Near Madina
District Rohtak (Haryana) - Applicant

(By Advocate Shri Shanker Raju)

Versus

1. Union of India through Lt. Governor, Raj
Niwas, Delhi.
2. Commissioner of Police, Police
Headquarters, M.S.O. Building, I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police, Police Head
Quarters, M.S.O. Building, I.P. Estate, New
Delhi. - Respondents

(By Advocate Shri Devesh Singh)

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman.-

An order passed by the Hon'ble Lt. Governor,
Delhi on 3rd December, 1996 rejecting the representation
of the applicant for reemployment as a Police Constable
in Delhi Police is impugned in the present O.A.

2. Brief facts which have led to the filing of
this O.A. are as follows:-

The applicant applied for the post of
Constable in Delhi Police on 9th June, 1987. His
verification was conducted from Rohtak and the same was
found good ^{vide} ~~by~~ the report dated 27th July, 1987. He
thereafter assumed duties on 1st October, 1987. His
services were, however, terminated on 17th May, 1988 on
the ground that he had suppressed his involvement in a
criminal case. He had been involved vide FIR No. 227
dated 8th September, 1987 and was prosecuted for an

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offence punishable under Sections 148/149 read with Section 324 of the Indian Penal Code. He had been formally arrested in respect of the aforesaid offence on 15/16 September, 1987. He filed a representation to the Commissioner of Police against the aforesaid order of termination dated 17th May, 1988. The same was rejected by an order passed on 16th September, 1988. The applicant thereupon instituted in this Tribunal O.A.No.1970/1988. The same was dismissed on 10th December, 1993 with an observation that the applicant was at liberty to agitate the issue of re-engagement by a representation to the respondents after and if he was acquitted of the criminal charge. The applicant was thereafter acquitted on 4th December, 1993 in Criminal Case No.187/2 of the Court of the Judicial Magistrate, First Class, Rohtak. The applicant based on the liberty granted by the aforesaid order of the Tribunal on 10th December, 1993, submitted a representation which was rejected by the Commissioner of Police on 2nd January, 1995. Being aggrieved by the aforesaid order of the Commissioner, the applicant once again approached the Tribunal by instituting OA No.364/1995 which was disposed of by the Tribunal on 1st of November, 1995 with a direction to make a representation ~~in regard to his grievance against the impugned order~~ for the purpose of seeking re-instatement. The Tribunal directed the Lt.Governor to dispose of the representation within a period of one month from the date of receipt of order ~~of this Tribunal~~ by passing a speaking order. The representation of the applicant, however, was dismissed by an order passed by the Principal Secretary (Home)

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dated 27th November, 1996. The applicant thereafter moved this Tribunal for contempt as the direction of the Tribunal to the Lt. Governor to decide upon the representation of the applicant had been flouted. The Lt. Governor thereupon has issued the impugned order on 3rd December, 1996 rejecting the representation of the applicant for re-engagement as Police Constable.

3. We have perused both the orders, ^{one} passed by the Principal Secretary on 27th November, 1996 and the one passed by the Lt. Governor on 3rd December, 1996 and we are pained to find that the impugned order of the Lt. Governor is a verbatim reproduction of the order passed by the Principal Secretary. All that the Lt. Governor appears to have done is to substitute the last page containing the signature of the Principal Secretary and has ^{proceeded to} appended his signature below the very same order. The order thus passed by the Lt. Governor to say the least exhibits a total non-application of mind on the part of the Lt. Governor. When this Tribunal had asked him to consider the representation of the applicant himself it was he who was expected to have applied his own independent mind and should have passed his own independent order giving his own reasons. He was accordingly wholly unjustified in adopting the very same order ascribed by the Principal Secretary. In the circumstances, we have no hesitation in holding that the aforesaid order of the Lt. Governor deserves to be quashed and set aside on this ground alone. ~~We do~~ The same is accordingly quashed.

4. Having set aside the impugned order we would ordinarily have remanded back this matter to the Lt. Governor to apply his mind afresh and pass his own reasoned order. However, we find that a long period of

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11 years have gone by and it will serve no useful purpose in undertaking the aforesaid exercise. We have accordingly gone into the merits of the matter ourselves.

5. As far as the applicant is concerned, no prosecution was pending against him on ^{9th June 1987} the date on which he had applied for being enrolled as a Constable, ~~on 9th June, 1987~~. Similarly, no prosecution had been filed when verification was conducted and a satisfactory report was issued on 27th July, 1987. In the circumstances, there was no occasion for him to have disclosed fact of any prosecution pending against him at ~~the~~ ^{the} time of his joining duties on 1st October, 1987. As far as the criminal prosecution is concerned, though the ~~F.I.R.~~ ^{Charge sheet} was lodged on 8th September, 1987 the ~~criminal case~~ ^{Charge sheet} was ~~registered~~ ^{lodged} only on 13th November, 1997 which is after he had joined duties on 1st October, 1987. In the circumstances, it cannot be held that he had knowingly suppressed the said prosecution at the time of his joining ~~on 1st October 1987~~ ^{on 1st October 1987}. Since it is only after he is served with the summons that he can be deemed to have ^{had} knowledge of the prosecution lodged against him. It is true that he had applied for anticipatory bail, however, the same would not justify an inference that prosecution would necessarily be filed against him. ~~As far as he is concerned, the charge sheet was lodged much later, on 13th November, 1987.~~ As far as he is concerned, he on his own volition informed his superiors of the prosecution on 1st March, 1988 and obtained permission for attending the Court of the Judicial Magistrate, Rohtak. In the circumstances we find that it is not that his superior officers learnt about the prosecution from ~~their~~ independent source and thereafter the

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applicant ~~has~~ furnished the information. The applicant has furnished the information of his own. All that can be said against him, if at all, is that he had failed to furnish the information during the period 13th November, 1987 ^{the charge sheet was filed} ~~when he was served with the Court summons~~ and the 1st of March, 1988 when he disclosed the said information. In our view the aforesaid lapse if at all cannot be held against him for all times to come. He in the circumstances cannot be denied reengagement in Delhi Police on the aforesaid ground.

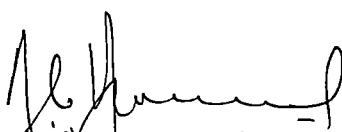
6. Shri Raju, learned counsel appearing in support of the OA has cited a decision of the Supreme Court in the case of Commissioner of Police, Delhi and another Vs. Dhaval Singh, being Civil Appeal No. 2537/1998 arising out of SLP(C) No. 12045/97 and decided on 1st May, 1998. In that case a Police Constable against whom a prosecution was pending on the date of the application had omitted to mention the same in the application form. His plea that he had inadvertently omitted to mention the same was accepted by this Tribunal in an OA filed by him seeking to impugn an order of cancellation of his candidature. The Supreme Court by the aforesaid order has upheld the order of the Tribunal which had directed reengagement of the said candidate. The facts of the present case stand on a much stronger footing. No prosecution was pending against the applicant on the date of the application as was the case before the Supreme Court.

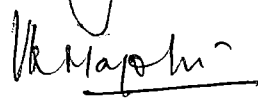
7. If one has regard to the ^{aforesaid} order of the Tribunal which has been affirmed by the Supreme Court, we are inclined to hold that the applicant herein is also entitled to a similar relief. *namely relief of re-engagement.*

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8. Respondents 2 & 3 being the Commissioner of Police and the Deputy Commissioner of Police are accordingly directed to re-engage the applicant provided he is ~~found~~ ^{found} otherwise fit by giving the age relaxation as provided in Rule 30 of the Delhi Police (Appointment & Recruitment) Rules, 1980. The present O.A. is allowed in the afore-stated terms, however, with no order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)

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