

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1546 of 1997

New Delhi, this 22nd day of March, 2000

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

Hem Raj
S/o Shri Durga Dutt
Vill. Wahwa, PO Gohar, Tehsil Chachoit
Dist. Mandi, Himachal Pradesh
Pin Code - 175029 ... Applicant

(By Shri Shankar Raju, Advocate - not present)

versus

1. Union of India,
Through its Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Commissioner of Police
Police Hqrs., I.P. Estate, New Delhi
3. Sr. Addl. Commissioner of Police,
A.P.&T, Police Hqrs.,
I.P.Estate, New Delhi
4. Dy. Commissioner of Police
IV Bn,DAP,Kingsway camp, Delhi ... Respondents

(By Shri B.S.Gupta, Advocate - not present)

ORDER(oral)

By Reddy.J

None appears for the parties either in person or through counsel. Since the matter is of 1997 and IS sought to be expedited at the instance of the applicant, we dispose of the OA on merits.

2. The applicant challenges the order of his removal from service. The facts are as follows:

3. The applicant was selected as Constable in Delhi Police during 1994. While he was in service, a complaint was received by the department alleging that

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the applicant was involved in a criminal case in FIR No.95/93 at P.S. Sadar Mandi in Himachal Pradesh u/s 323/448/451/147/506 IPC and that the applicant had concealed his involvement in the case while applying for the post of Constable in the Attestation Form/Application Form.

4. The facts were verified from the S.P. Dist. Mandi, Himachal Pradesh regarding involvement of the applicant in the said criminal case. A charge memo had been issued to the applicant on 3.2.1995 on the above allegations and an enquiry was conducted. The Enquiry Officer who conducted the enquiry submitted his findings to the disciplinary authority holding the applicant guilty of the charge. The disciplinary authority, agreeing with the findings of the enquiry officer and considering the evidence on record afresh, passed the impugned order dated 9.11.1995 imposing the penalty of removal from service. The appeal filed against the removal order has been rejected by an order dated 11.4.1996. The revision petition was also rejected by an order dated 22.3.1997. The applicant challenges the above orders in this OA.

5. We have gone through the pleadings and points raised by the applicant. It is firstly urged that the alleged misconduct cannot be enquired into as the allegations in the charge memo do not constitute 'misconduct' under CCS(Conduct) Rules, 1964. The contention is elaborated by arguing that the

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allegations pertain to the date prior to the appointment of the applicant as Constable in Delhi Police and the misconduct should, as enumerated under the Conduct Rules, relate to only misconduct committed by the employee after he was selected. We do not agree. The charge against the applicant was that he has deliberately concealed the facts of his involvement in a criminal case in the Attestation Form/Application Form in order to seek appointment. Thus the charge is not as violating the CCS(Conduct)Rules,1964. The misconduct was as to the objectionable conduct of the applicant which would disable him to continue in government service. The charge against the applicant is intricately connected with the appointment of the applicant as Constable. It cannot, therefore, be said that the charge has nothing to do with the appointment of the applicant as Constable. This question is squarely covered by judgement in P.J. Poulse Vs Assistant Engineer, Cross Bar Telephone Exchange, Muvattupuzha and ors [1991 ATC (16) 145 (CAT Ernakulam)]. It was held therein that the particulars furnished by the applicant at the time of submission of application form, if found false, would render him liable to dismissal and such act even if not a misconduct within the purview of the Conduct Rules would render the applicant to be proceeded under the provisions of CCS ~~Conduct~~ Rules. But the charge must specify that the delinquent is guilty of suppression of facts in the application form.

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19

6. It is further urged that the applicant was not aware of his involvement in the criminal case. Hence he could not be found liable for not revealing the same in the application form. This question cannot be considered by us as the enquiry officer relying upon the evidence on record came to the conclusion that the applicant had deliberately concealed the facts of the involvement of the applicant in the criminal case. This question of fact cannot be gone into by us in the exercise of judicial review jurisdiction. It is also contended that as the applicant was exonerated ultimately by the judgement dated 3.12.1996, he cannot be proceeded with on the same ground during the disciplinary proceedings. The applicant is wholly misconceived in this contention. It is not the liability of the applicant in the said criminal case that is sought to be charged against him. The charge is that he did not reveal that he was involved in a criminal case in the application form. Hence the question of acquittal in the criminal case has no relevance for the purpose of guilt or otherwise in the case.

7. We do not, therefore, find any merit in either of the allegations raised by the applicant. The OA is, therefore, devoid of merit and is accordingly dismissed. No order as to costs.

(Mrs. Shanta Shastry)
Member(A)

(V. Rajagopala Reddy)
Vice Chairman(J)

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