

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2411/97

New Delhi, this the 9th day of August, 2000

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Prem Prakash Singh, S/O Sh. Ram Charan
Verma, R/O Village Sarol, Distt.
Aligarh, U.P.Applicant

(By Advocate: Sh. Jog Singh)

Versus

1. The Lt. Governor Delhi, through
Director General, Delhi Police, 5,
Shamnath Marg, Delhi.
2. D.C.P. IIIrd Bt., D.A.P. New
Police Lines, Delhi-9.Respondents

(By Advocate: Sh. Ajay Gupta)

O R D E R

Hon'ble Mr. S.A.T. Rizvi, Member (A):

The applicant, Sh. Prem Prakash Singh has filed this OA against the order dated 4.7.95 passed by Respondent No.2, terminating his services without assigning any reason. The applicant's contention is that the said order is passed pursuant to the allegation of impersonation against him and, that being so, he should have been properly charged for serious misconduct, so as to afford to him proper and adequate opportunity to defend himself in accordance with the relevant rules.

2. The facts of the case as revealed in the OA briefly are as follows.

3. Sh. Prem Prakash Singh (Applicant), S/O Sh. Ram Charan Verma, R/O Vill. Sarol, Distt. Aligarh, U.P. was born on 22.6.73 and that he passed his High School

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Examination in the year 1991. The mark sheet issued in respect of High School Examination reveals his date of birth as 22.06.1973 (Annexure A-5). The same date of birth has been recorded in two other certificates (Annexure A-2 & A-4). He had an elder brother, namely, Prem Pal Singh who died on 22.8.88 vide copy of death certificate (Annexure A-3). On the basis of his educational qualifications and the certificate of age referred to (Annexure A-5), he was duly selected for appointment in Delhi Police as Constable and he joined the basic Training Course on 1.5.94. The applicant's plea is that one Sardar Singh, who was on inimical terms with his family, made a false complaint against him insinuating that the date of birth shown by the applicant was incorrect and false and that on the basis of this complaint, the respondents have enquired into the matter and have ultimately terminated his services vide order dated 4.7.95 (Annexure A-1). The applicant has stated that the termination order in question has the effect of a stigma and accordingly has referred to the observations made by the Hon'ble Supreme Court in the case of Anoop Jaiswal Vs. Union of India (AIR 1984 SC 636), reproduced below:

"The form of the order is not decisive as to whether the order is by way of punishment and that even an innocuously worded order terminating the service may be in fact and circumstances of the case establish that an enquiry into allegations of serious and grave character of misconduct involving stigma, has been in infraction of the provisions of Article 311 (2), where the form of the order is merely a camouflage for an order of dismissal for misconduct, it is always open to the court before which the order is challenged to go behind the form and ascertain the true character of the order." (emphasis added)

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4. In the same context, the applicant has also referred to the case of Kidwai Memorial Institute of Orchology 1992 (4) section 719 in which Hon'ble Supreme Court has observed that if an employee who is holding an appointment on a temporary basis is removed from service with stigma, then a plea cannot be taken that his service was temporary. In the same judgement, the Hon'ble Supreme Court has observed that the principle of tearing the veil to find out the real nature of the order shall be applicable where the Court is satisfied that there is a direct nexus between the charge so levelled and the action taken.

5. In the reply filed on behalf of respondents, it has been brought out that the allegation of impersonation, coupled with the suppression of the date of applicant's birth has been fully investigated and it has been established beyond doubt that the applicant (Prem Prakash Singh) is none other than Prem Pal Singh, who was born on 22.6.70 and further that the said Prem Pal Singh deliberately impersonated as Prem Prakash Singh (present applicant) and managed to obtain forged certificates from the schools showing 22.6.73 as the date of his birth. The respondents have also made clear that the investigation carried out by them has established that the applicant had no elder brother, called Prem Pal Singh, and that the death of the said Prem Pal Singh on 22.8.88 is a concoction not supported by the facts and the circumstances that have emerged in this case. The respondents have produced the applicant's statement recorded during the course of investigation in which he

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has admitted that he had two names, one of which was Prem Pal Singh. These investigations have also established that the certificate of death of the applicant's so called brother Prem Pal Singh is false and is the result of the manipulation by the applicant.

6. We have carefully gone through the departmental records produced by the respondents which contain the proceedings of the investigation made in this matter. We find it difficult to question the veracity of the documents forming part of the departmental records which unequivocally establish that the claim of the applicant as regards his age and the existence of a brother called Prem Pal Singh, is totally false. We have in particular relied on the following documents available in the departmental records:-

i) Sh. Prem Chand Gupta, Gram Panchayat Officer, Tappal's letter to Inspector, Vigilance Delhi Police, dated 25.4.95 which goes to show that the death of Prem Pal Singh son of Ram Charan Verma has not been recorded in his office.

ii) The hand-written statement dated 24.4.95 of Dr. M.G. Somani, Medical Officer, PHC Tappal, Aligarh, in which the doctor has acknowledged that he had given a false certificate of death in respect of Prem Pal Singh.

iii) The statement of Head Master (retired) which brings out the fact that a false certificate was given by him at the instance of the applicant's father.

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iv) The statement of a number of villagers dated 25.4.95, which shows that Ram Charan Verma had indeed two sons, namely, Satpal and Prem Pal alias Prem Prakash who were then both alive.

v) The birth certificate of Kumari Manju daughter of Ram Charan Verma showing 8.12.73 as the date of her birth and by implication establishing that the applicant's actual date of birth could never be 22.6.73.

vi) The letter of the Principal, I.T.I. Gulavathi, District Bhulandsahar, dated 15.4.95 addressed to Inspector, Vigilance, Delhi Police showing that Prem Pal Singh S/o Ram Charan Verma was admitted in his institute on 1.9.89 on the basis of his educational qualification which was high school and that the date of his birth was 22.6.1970, establishing by implication that the said Prem Pal could not have died on 22.8.88 as claimed by the applicant.

vii) Elector Roll (1995) of Khair Vidhan Sabha (page No. 7) which lists the name of Prem Pal, S/o Ram Charan, implying that Prem Pal's death could not have taken place on 22.8.88 as claimed by the applicant.

7. It will be seen from what we have discussed that the facts mentioned by the applicant as regards his age (date of birth) and name are highly improbable and we must give due weightage to the facts which have emerged during the detailed investigation made by the respondents.

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8. As regards the applicant's plea of stigma, and the consequential implicit demand for a proper trial in a regular departmental proceeding, it needs to be pointed out that apart from the detailed investigation carried out by the respondents, the result of which has been briefly discussed above, the applicant's own admission during the investigation carried out by the respondents, to the effect that he and Prem Pal Singh were one and the same person, finishes his case and the applicant's plea in question also collapses. Consequently, we have no hesitation in holding that there has been no loss of natural justice in dealing with the applicant in the circumstances of this case and he could not have achieved better results than are now available in relation to his case. Accordingly, we would like respectfully to point out that the observations of the Hon'ble Supreme Court brought out in the OA would seem to lose relevance in the facts and the circumstances of this case. Further the order of termination passed by the competent authority is an order simpliciter and does not indicate even vaguely that it has been occasioned by any charge being proved against the applicant. It would be unnecessary, therefore, to lift the veil and look behind the order in the peculiar circumstances of this case. In the result, we find that in the light of preponderance of probabilities stemming from the evidence on record, the applicant has no case and the O.A. is rejected.

8. While rejecting the OA, we cannot also help pointing out that, all said and done, the applicant might yet succeed in reviving his case in due course. In the

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reply filed on behalf of the respondents, it has been mentioned that a criminal case vide, FIR No. 330/95 under section 420/469/471/120-B of the IPC, has been registered at the Police Station Mukherji Nagar, Delhi. against the applicant in respect of the charge of impersonation and falsification of the certificate of educational qualification. The applicant can always hope that the investigation in the said criminal case will be completed soon and the verdict of the Court will be finally in his favour, and if that ~~use~~ ^{is were} to happen and the applicant succeeds, it will be open to him to approach the respondents for review insofar as the relief sought through the present O.A. is concerned. Meanwhile the O.A. stands rejected. There will be no order as to costs.

S.A.T. RIZVI
(S.A.T. RIZVI)
MEMBER (A)

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

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