

Central Administrative Tribunal
Principal Bench

O.A. No. 2437 of 1997

New Delhi, dated this the 30th October, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Ex-Constable Vikas Kumar No. 2228/C,
S/o Shri Harbir Singh,
R/o Vill. & P.O. Budhpur,
P.S. Ramala,
Dist. Meerut,
Uttar Pradesh.

.. Applicant.

(By Advocate: Shri Shankar Raju)

Versus

1. Union of India through
the Secretary,
Ministry of Home Affairs,
New Delhi.
2. Commissioner of Police,
Police Headquarters, I.P. Estate,
M.S.O. Building,
New Delhi.
3. Dy. Commissioner of Police,
Central District,
Darya Ganj,
New Delhi.

.. Respondents

(By Advocate: Shri Ashwini Bhardwaj
proxy counsel for Shri Rajan Sharma)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents' orders dated 23.4.97 (Annexure A-1) terminating his services under Rule 5(1) CCS (Temporary Service) Rules and respondents' letter dated 20.8.97 (Annexure A-2) rejecting his representation, for suppression of the fact that he was involved in a criminal case at the time of submitting his application form and attestation form for appointment as constable in Delhi Police.

2. As per applicant's own averments, applicant applied for appointment as Constable in Delhi Police in March, 1995. He appeared in the written examination in/about March, 1995 and was selected as Constable in March, 1996. He was sent for training in July, 1996, and while undergoing training received the termination order dated 23.4.97. Applicant contends that he was falsely implicated in a criminal case bearing FIR No. 122/94 u/s 323/324/504/506 IPC P.S., Ramala, U.P., which he states was compromised between the parties. He contends that at the time he had filled in the application form in March, 1995, he had not received any summon from the Court or the police station and the case was not pending in Court and he was not prosecuted for the said offence. As such he asserts that he had rightly written that there was no prosecution pending against him. He further contends that subsequently also at the time of filling up the attestation form in March, 1996 he was not aware of any pending case against him. He asserts that he was honourably acquitted by the Court, and the termination of his services by the impugned order which is punitive in nature casts a stigma upon him, without giving him an opportunity to show cause and the rejection of his representation by a non-speaking order, is illegal, arbitrary and violative of the principle of natural justice.

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3. Respondents in their reply challenge the O.A. and assert that the impugned orders waarrant no interference.

4. Applicant has filed rejoinder in which he has denied respondents' contentions and broadly reiterated his own.

5. We have heard both sides.

6. Applicant himself admits that when he submitted his application form for appointment as Constable in Delhi Police in March, 1995, he featured as an accused person in criminal case FIR No. 122/94 u/s 323/324/504/506 IPC P.S. Ramala, U.P. out of which criminal case No. 975/95 arose in the Court of the Upper CJM Baghpat. Applicant cannot deny that he appeared in Court in that case on 11.1.96 as is clear from a copy of the Court order sheet (copy at page 17-18 of the O.A.). Applicant has not denied that he submitted the attestation form for appointment as constable in Delhi Police on 3.4.96. There is a clear warning in the application form as well as in the attestation form, that furnishing of false information and/or suppression of relevant information would render the candidates ineligible for appointment and liable to termination of his service. Despite this, neither in the application form nor in the attestation form did applicant make any mention of his involvement in the aforesaid criminal case.

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7. Under the circumstances, if respondents upon finding that applicant had suppressed the fact of his involvement in the criminal case in both the application form, as well as in the attestation form ^{despite} ~~in terms~~ of the clear warning contained therein, terminated applicant's services under Rule 5(1) CCS (Temporary Service) Rules, by impugned order dated 20.8.97 which casts no stigma upon him, it cannot be said respondents have acted illegally, or arbitrarily or in violation of the principle of natural justice, so as to warrant judicial interference.

8. In support of his arguments Shri Shankar Raju has relied upon the Hon'ble Supreme Court's ruling in D.P. Banerjee Vs. S.N. Bose National Centre for Science Jt 1999 (1) SC 396 to argue that stigma need not be contained in the order of termination but may also be contained in any order or proceeding referred to in the order or in any annexure, but the impugned order dated 23.4.97 does not contain any annexure, and no order or proceeding has been referred to in it which casts stigma upon applicant. Hence this ruling does not help applicant. Another ruling relied upon by Shri Shankar Raju is of the Delhi High Court order dated 20.4.98 in CWP No. 3091/96 Shri Ravindra Singh Vs. U.O.I. & Others but that is distinguishable on facts in as much as in that case, there was no case pending against applicant on the relevant date, which is not the case here. Another ruling relied upon by him is in O.A. No. 1312/89 Shri Parshottam Singh Vs. Delhi Administration & Others decided by C.A.T., P.B.

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on 2.7.91 which was also upheld by the Hon'ble Supreme Court in Civil Appeal No. 2165/93 on 11.10.97, but the facts in that case are also distinguishable from the facts of the present case. In that case the applicant was specifically informed by order dated 8.5.99 that his request for reinstatement had been rejected because he had concealed the facts of his involvement in a criminal case in his application and attestation form, and this impugned order were, therefore, held to have caused stigma to applicant. In the present case neither the impugned order dated 23.4.97 nor the impugned letter dated 20.8.97 casts any stigma upon applicant.

9. Another ruling relied upon by Shri Shankar Raju is V.P. Ahuja Vs. State of Punjab & others JT 2000 (3) SC1. In that case the order dated 2.12.98 terminating his services clearly stated that his services were being terminated because he had failed in the performance of his duties administratively and technically. Such an order was clearly stigmatic and punitive which is not the case in the O.A. now before us. Hence this ruling also does not help the applicant.

10. Yet another ruling relied upon by Shri Shankar Raju is Raj Kumar Vs. Union of India & Others 1996 (1) SCR 378, but in that case, that applicant who was in temporary service was placed under suspension on the ground that a disciplinary proceeding was under contemplation, but thereafter,

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without concluding the disciplinary proceeding his services were terminated. Clearly in this case respondents resorted to a short cut of terminating that applicant's services instead of continuing with the disciplinary proceedings which cast a shadow on applicant's character and was, therefore, stigmatic. That is, however, not the case in the O.A. now before us. Hence that ruling also does not help the applicant.

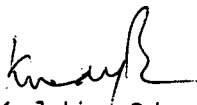
11. In an identical case bearing O.A. No. 365/98 Zile Singh Vs. Commissioner of Police and others decided by C.A.T., P.B. on 9.2.99, after noticing its earlier rulings in Subodh Singh Vs. Union of India & others (O.A. No.1667/97 decided on 5.12.97) and the Hon'ble Supreme Court's decision dated October, 1996 in Civil Appeal No. 13231/96 Delhi Administration Vs. Sushil Kumar, the Bench had observed thus:

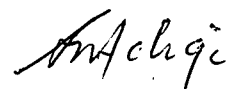
" As held by the Hon'ble Supreme Court, the verification of the character and antecedents of the selected candidates for a post in a disciplined force is very material. The applicant having been warned of the consequences of either giving false information or suppressing relevant information had, therefore, sufficient notice and the appointing authority cannot, therefore, be faulted in any manner for his action in issuing the impugned termination order..... Therefore considering the facts of the case it cannot be said that this competent authority has in considering the suitability of the applicant to continue in same as Constable acted in an arbitrary, unwarranted or unreasonable manner which justifies any interference." and dismissed O.A. No. 365/98.

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12. We hold that the ruling in O.A. No. 365/98 extracted above is squarely applicable to the facts and circumstances of the present case.

13. This O.A. is, therefore, dismissed. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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