

Central Administrative Tribunal

Principal Bench

New Delhi

New Delhi, this the 29th March, 1995.

O.A. No.2255 of 1994.

CORAM:

HON'BLE MR. J.P.SINGH, MEMBER(J).

HON'BLE MR. B.K.SINGH, MEMBER(A).

Chander Pal Singh,
S/o: Shri Vijay Singh,
R/o: Village Nangal Khurd, P.O. Khandeha,
Distt. Aligarh,
U.P.Applicant

(Through Mr. D.P. Avinashi, Advocate)

Versus

1. Commissioner of Police,
Police H.Q. I.P. Estate,
New Delhi.
2. Dy. Commissioner of Police,
IIIrd Bn. DAP, Police H.Q.,
I.P. Estate, P.H.Q., New Delhi.
3. Dy. Commissioner of Police,
HQ(I), Delhi 'KKY'
PHQ, I.P. Estate, New Delhi.

.... Respondents

(Through Mr. Raj Singh, Advocate)

ORDER (ORAL)

Hon'ble Mr. J.P.Sharma,Member,(J)

The applicant was selected as Constable in Delhi Police in the recruitment held on 7.01.1994. He was declared selected but has not been given offer of appointment for reasons that he does not possess the vision as per prescribed standards and further that he has concealed certain facts in the attestation form submitted by him for verification for antecedents. He filed

this application in September, 1994 and prayed for the grant of the relief that the impugned order dated 29.04.1994 informing the applicant that the report of the local police reveals that as he was involved in the Criminal case FIR No.29/89 under Section 147/323/324 IPC at P.S. Tappal, District Aligarh, U.P. and as such he concealed the facts in his application form as well as attestation form deliberately in order to seek his appointment in Delhi Police by adopting deceitful means, therefore, the candidature for the post of Constable in Delhi Police is being cancelled.

A notice was issued to the respondents who contested this application and stated that the applicant aspires for being enrolled in Disciplined Force yet he has concealed certain facts and, therefore, on the standard of credibility expected from a Police Personnel, he could not be offered the appointment to the post of Constable in Delhi Police and, his candidature was cancelled by DCP/III Bn DAP, Delhi vide his letter No.233/R.Cell-II Bn. DAP dated 29.04.1994.

It is further stated that on account of medical examination also the the Chief Medical Supdt., B.D. Pandey Distt (M) Hospital, Nanital (UP) declared him ^{temporarily} unfit on account of "Distant vision was to be corrected with glasses". However, this Medical examination was subsidiary which was not taken serious note of by the respondents as he is to be again medically examined with glasses in order to make his vision with glasses as per prescribed standards.

The applicant has filed the rejoinder.

We heard the applicant, after waiting for the counsel for the applicant. We also heard the 1d Counsel for the respondents. Shri Raj Singh, The counsel for the Applicant Shri D.P.Avinash is not available today.

Concealment of certain facts by a person should be in any manner whatsoever be advantageous in obtaining certain benefits from the other side. We heard the respondents who have taken the stand that the applicant in a deceitful manner concealed certain facts of his involvement in a Criminal case. The deceitful means, mentioned by the

respondents alleged against the applicant cannot be borne out from the facts in this case. We find that the applicant applied for the post of Constable in Delhi Police in January, 1994 had already stood acquitted by a case filed against him at P.S. Tappal District Aligarh u/S 147, 323, 324 IPC. It appears to be a case which has been filed on 28.02.89 at about 7.30 at village Nangal Khurd, by one Shri Roop Singh. This case has ended in acquittal by the Order of the Criminal Court, Judicial Magistrate, Aligarh dated 6.4.1991. No stigma was attached on his person. The applicant was tried as an accused in that case and when he has been totally exonerated from all the charges levelled against him that charge being not of moral turpitude, he cannot be debarred from seeking employment either in the State or Central Government. However, the basic stand taken by the respondents is that the applicant should have shown this involvement in the criminal case in 1989 in the attestation form/application form for the post of Constable in Delhi Police and he omitted to do so makes his action a deceitful one for procuring appointment in disciplined force. It is the common human nature to conceal his defects. It is also evident that person

(8)

will not proclaim him as an accused. It was for the respondents to find out the antecedents of the applicant. Merely because the applicant has concealed certain facts and the concealment of the same would not have given him any benefit whatsoever would not be taken to deprive the person of the employment as he has been finally acquitted. The stand of the respondents, therefore, is unjustified and cannot in any way come in the way of giving employment to the applicant, on concealing the fact which could have given ~~no~~ advantage to the applicant.

(9)

Even in cases where during the course of employment in government service, State or Central, if a person is involved in a criminal case and is acquitted, the government has to consider his case for continuing in service if the acquittal is clean and do not attach any stigma on any person, also from the vigilance angle he is completely clear.

In view of these facts declining the offer of appointment solely on the ground that he has concealed certain facts would be unjust, unfair and arbitrary on the part of the respondents.

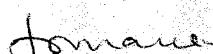
However, the applicant has to come out successful in the Medical test which are prescribed and laid down for the post. In the counter it is referred that "Distant vision be corrected with glass." The applicant, therefore, should be medically examined again on the prescribed standard on the opinion of the medical expert, and if found fit for the job of Constable in Delhi Police, can be considered for the offer of appointment.

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The application is, therefore, partly allowed and the impugned order of cancelling candidature in the Delhi Police for the post of constable is quashed and the applicant shall be taken to have come ^{out} successful in the said selection and the respondents will consider the case for appointment if he is found fit in the medical examination as per laid down standards. The application is disposed of accordingly with no order as to costs.

The respondents shall comply with the orders withinin three months from the date of receipt of a copy of this order.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

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