

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

M.A.NO.1972/2002 &
O.A.NO.671/1994

this the 12th day of August, 2003

Hon'ble Shri Justice V.S.Aggarwal, Chairman
Hon'ble Shri S.K.Naik, Member(A)

Shri Rishi Pal Singh Rana
S/o Shri Vidya Ram
R/o B-6, Police Station, Serai Rohilla
Delhi-110 007. ...Applicant.

(Shri G.D.Gupta, Senior Advocate with
Shri Pankaj Kumar, Advocate)

Versus

1. Staff Selection Commission
Through its Chairman
Government of India
Ministry of Personnel, Public Grievances
and Pensions
Department of Personnel and Training
Block No.12, Kendriya Karyalay Parishar
Lodi Road
New Delhi-110 003.
2. The Commissioner of Police(Crime),
Police Headquarters,
M.S.O.Building, I.P.Estate
New Delhi-110 002.
3. The Addl. Commissioner of Police (Admn.)
Police Headquarters
M.S.O. Building, I.P.Estate
New Delhi-110 002. ...Respondents.

(By Advocates: Shri S.M.Arif and Shri Vijay Pandita)

ORDER (ORAL)

By Hon'ble Sh. Justice V.S.Aggarwal:

This matter started in the year 1994. The applicant (Rishi Pal Singh Rana) contended that he joined as a Constable and was promoted as Head Constable in 1990. The post of Sub Inspector is required to be filled up by direct recruitment to the extent of 50%. The selection is carried by the Staff Selection Commission. An advertisement was issued in the Employment News of 30th March-5th April, 1991 and the applicant was selected and he

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joined as Sub Inspector on 4.12.1992. He was sent for training on 26.12.1992. While the applicant was undergoing training, he was placed under suspension having been involved in a criminal case with respect to offences punishable under Sections 419/420/468/471 of the Indian Penal Code. An First Information Report No.184/1993 was registered at Police Station Lodhi Colony. When the applicant filed the present Original Application under consideration, he was challenging the order by virtue of which his candidature had been cancelled and following reliefs had been prayed:-

- "(i) quashing the impugned Memo. dated 17th February, 1994 ordering cancellation of candidature of the applicant;
- (ii) declaring that since after being declared successful in the examination conducted by the S.S.C. the applicant has already been appointed in Delhi Police, the question of cancellation of the candidature by the S.S.C. did not arise and no power has been left with the S.S.C. to cancel the candidature under the very Rules of Notice of Examination and, therefore, the cancellation of the candidature of the applicant be liable to be declared as illegal as being incompetent without any jurisdiction;
- (iii) directing the respondents not to cancel the candidature of the applicant as after the applicant being declared successful in the examination and interview and after being duly appointed by Delhi Police, the S.S.C. has no jurisdiction and authority to still cancel the candidature of the applicant."

2. During the pendency of the present

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application, Miscellaneous Application No.1972/2002 had been filed seeking amendment to the application asserting that because of the subsequent events, details of which shall be referred to herinafter the applicant should be allowed to amend the prayer clause and urge the additional grounds in this regard.

3. The application has been opposed. The law is well-settled that the duty of the court is to determine the rights of the parties and not to punish them for their mistake. However, late may be perhaps the amendment of the same should be allowed if it is necessary to adjudicate upon the rights of the parties. Since certain subsequent events have taken place and the applicant intends to challenge the order of 3.1.2002 whereby he had been reinstated as Head Constable (Executive) rather than Sub Inspector (Executive) and this is in sequel to the subsequent events that have taken place, we find no reason as to why the amendment should not be allowed. The interest of justice do require. Accordingly, we allow the amendment.

4. Since the facts were not in controversy, we heard the parties' learned counsel on the original application also keeping in view the old pending matter in this Tribunal. There was no opposition.

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5. When the applicant as already referred to above was undergoing training, it was alleged that he had not in fact appeared in the test and the same was attempted by some covering candidate.

6. The applicant had filed OA No.242/1994 challenging the action of the Delhi Police in proceeding to hold the departmental inquiry asserting that charges in the enquiry were absolutely identical to the charges for which the applicant was being prosecuted. The said Original Application was disposed of on 11.5.1994 with the direction that the departmental enquiry should be kept in abeyance till the culmination of the trial of the applicant by a competent court. A Memorandum was issued informing the applicant that an inquiry had been conducted by the Central Bureau of Investigation and it had been concluded in the inquiry that unfair means had been employed by the applicant and the candidature of the applicant had been cancelled. The applicant had preferred the abovesaid Original Application and it was directed that hearing of the Original Application should be postponed till the decision of the matter pending before the criminal court. It was adjourned sine die. The applicant was acquitted by the trial court on 23.9.2000 and it is contended that cancellation of the candidature of the applicant is liable to be set aside. On 16.10.2001, this Tribunal had observed that once the applicant had

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been acquitted in the criminal case, the authorities can take a decision as to whether departmental proceedings should continue or not. This Tribunal had passed the following order:-

"10. The O.A. is, therefore, disposed of without going into merits of applicant's challenge to the impugned memo dated 17.2.94 at this stage with a direction to respondents 2 and 3 to apprise applicant within three months from the date of receipt of a copy of this order whether they propose to drop the D.E. initiated against him, or to go ahead with the same. In either event, it will be open to applicant thereafter to seek revival of this O.A. through an M.A. Meanwhile till respondents communicate their decision to applicant, the status quo as of today shall not be altered to his disadvantage. No costs."

Thereafter it is contended that the Additional Deputy Commissioner of Police, Central District, Delhi on 3.1.2002 had decided that no departmental enquiry had to proceed because no additional evidence is available with the department. However, the applicant should be served with a notice of censure for not intimating the department of registration of a criminal case. It was directed that the applicant should be reinstated in the rank of Head Constable (Executive) and his suspension period from 1.10.1993 to the date of issue of the order should be treated as spent on duty.

7. The proceedings of the present Original

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Application had been revived.

8. These facts clearly establish that there was no appeal filed against the decision of the court acquitting the applicant. It is also admitted that departmental proceedings against the applicant even had been dropped. On the strength of these facts, the learned counsel for the applicant has urged that so far as imposition of the penalty of censure is concerned, the applicant does not challenge the said order, but according to the learned counsel, cancellation of the candidature of the applicant as Sub Inspector should not be upheld nor he should be reverted from the post of Sub Inspector to that of Head Constable.

9. The above sequence of events that we have stated makes the position clear. The applicant had joined as Sub Inspector as direct recruit in the quota that has been prescribed. In any case, he was undergoing training as Sub Inspector when departmental proceedings had been initiated. The departmental proceedings. The departmental proceedings had been dropped and even the applicant had been acquitted. The question thus of reverting the applicant as Head Constable does not arise and on reinstatement, he is to be restored to the post on which he was undergoing training. His candidature on that count also cannot be cancelled because there is nothing on the record to indicate


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that the very impersonation took place.

10. Resultantly, we dispose of the present application with the following orders:-

- (a) Miscellaneous Application No.1972/2002 for amendment in the prayer clause is allowed;
- (b) Imposition of censure on the applicant is not challenged; and
- (c) The cancellation of the candidature of the applicant and his reversion from the post of Sub Inspector to that of Head Constable and orders so passed to that effect are quashed. No costs.


(S.K. Naik)
Member (A)

/sns/


(V.S. Aggarwal)
Chairman