

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA-No.901/94

7

New Delhi this the 23rd Day of February, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)  
Hon'ble Dr. A. Vedavalli, Member (J)

Kalyan Singh, Roll No.1297,  
S/o Sh. Shanker Lal,  
R/o Village Mandwara,  
P.O. Sikandrabad,  
District Buland-Shahar (U.P.) ...Applicant

(By Advocate Sh. Ranjit Singh)

Versus

1. The Commissioner of Police,  
Delhi Police Head Quarters,  
M.S.O. Building, I.P. Estate,  
New Delhi-110 002.
2. The Deputy Commissioner of Police,  
IIIrd Batalion, D.A.P.,  
Delhi.
3. The Assistant Commissioner of Police,  
Police Head Quarters,  
IIIrd Batalion, D.A.P.,  
Delhi. ....Respondents

(By Advocate Sh. Raj Singh)

ORDER(Oral)

Hon'ble Mr. N.V. Krishnan:

The applicant was a candidate for selection to the post of Police Constable under the Delhi Police. He is aggrieved by the order dated 22.12.93 (Annexure A) of the second respondent - the Deputy Commissioner of Police, IIIrd Batalion, Delhi Armed Police, Delhi by which he was informed that as it was revealed that the applicant was involved in a criminal case under Section 147/323 I.P.C. registered under FIR No.21/92 in P.S. Sikandrabad, District Buland-Shahar, which was pending trial in the Court, he had concealed these facts in the attestation form, and hence his candidature for the

12

(2)

post of Constable (Executive) was cancelled. Being aggrieved, this OA has been filed for quashing Annexure-A order.

2. The facts are not in dispute. Admittedly, the applicant had successfully completed the selection process. Before appointment he was required to give particulars in an attestation form which is in Hindi. It is the entry made in this form that is stated to be false and concealment of facts.

3. An English translation thereof has been provided for our perusal by the learned counsel for the respondents. The attestation form begins with a warning to the candidates that any information given in the attestation form which is false or which amounts to concealment of a fact or truth shall be considered to be a disqualification which will disqualify the candidate from service.

4. Para 11 of that attestation contains two questions, which read as under:-

"Have you ever been prosecuted, confined/detained in custody, found guilty of any offence by court of law or have been disqualified by public service commission or not allowed to take part in any selection?" and "Is there any case pending in any court against you at the time of filing this attestation form?"

In reply to both the questions the applicant has stated 'No' on 4.8.93 after giving a solemn declaration that the entries made are "true and correct to my knowledge and belief".

(3)

5. This attestation form was sent to the Station House Officer (SHO), Sikandrabad, Buland Shahar, who sent a report on 30.8.93. Translation of his report is also provided by the learned counsel for the respondents. The original of that report has also been produced for our perusal. In that report, the SHO states that offence No.21/92 under Section 147/323 IPC was registered and chargesheet No.12 dated 20.1.92 was sent to the Court and is pending trial. The learned counsel for the respondents adds that the applicant was arrested in this connection and he has been enlarged on bail by the Court. The applicant had therefore full knowledge of this case.

6. The learned counsel for the applicant does not dispute these facts, particularly the fact that the aforesaid crime has been registered and the case has been instituted in the Court as mentioned above and that that case was pending when the applicant signed the attestation form. The learned counsel, however, states that it cannot be said that the applicant falsified the attestation form by suppressing this information. He states that in response to question No.12 of the attestation form the applicant had said both 'Yes' and 'No' in Hindi. The said question No.12, as translated in English reads as under:-

"Are you free from debt or involved in any such civil suit in which you may be declared unfit for/disqualify for police service?"

h

(4)

The applicant has answered 'Yes/No'. Another part of the question is "Have you ever been disqualified for police service on medical ground: If so why and by whom? The answer is 'No'. He contends that as the applicant had given the answer 'Yes' and 'No' to part (a) it cannot be said that he suppressed this information about the criminal case.

7. We are unable to agree. The questions No. 11 and 12 are two different topics. Question No.11 alone deals with prosecution/criminal case etc. and to that question, unambiguously, the applicant has give a negative reply, though the fact of a pending criminal trial was well within his knowledge.

8. Accordingly, there is no doubt that the applicant had give a false statement in answer to question No.11 and, therefore, the respondents cannot be faulted for cancelling his candidature.

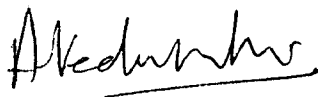
9. The learned counsel for the applicant, however, contends that, until the applicant is convicted, the benefit of selection should not have been refused to him. He relies on a decision of the Bombay Bench of this Tribunal in Rakesh Amrit Lal Vig vs. General Manager, Central Railway & Others (1990 (2) SLJ CAT 646. We have seen that decision. The facts therein are entirely different. In that case, the applicant had disclosed in the attestation form that three cases were pending against him. He was refused appointment on the only ground that criminal cases were pending against him. The Court found that

(5)

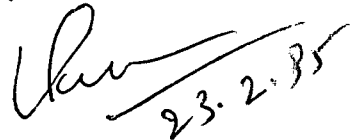
this by itself would not be a disqualification unless he was found guilty, because every one is to be held innocent till proved guilty. The present case is entirely different. The allegation here is that he made false statement in the attestation form wherein there is a warning clearly given that this will result in disqualification.

10. The learned counsel for the applicant, however, pleads for a mercy, stating that the applicant is a Scheduled Caste candidate.

11. We are of the view that in so far as the rights of the parties are concerned, the respondents were entirely justified in issuing the impugned Annexure 'A' order, disqualifying him and cancelling his candidature from selection. In the circumstances we find that this O.A. has no merit and accordingly, it is dismissed. We, however, make it clear that this will not either prevent the applicant from seeking any mercy from the Administration nor will it stand in the way of the respondents from disposing of any representation made by the applicant in any manner.



(Dr. A. Vedavalli)  
Member(J)

  
23.2.35

(N.V. Krishnan)  
Vice-Chairman(A)

'Sanju'