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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI:

O.A.NO.919/94

New Delhi, this the 7th November, 1994

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

Hon'ble Shri B.K. Singh, Member(A)

Shri Chander Bhan,
s/o Shri Kamal Dutta,
c/o 148, Western Wing,
Tis-Hazari, Delhi.

... Applicant

By Advocate: Mrs. Sumedha Sharma

Vs.

1. The Commissioner of Police,
Delhi Police,
Police Headquarters,
M.S.O. Building,
I.P. Estate, New Delhi.
2. The Deputy Commissioner of Police,
III Battalion, Delhi Armed Police,
New Police Lines,
Delhi.
3. The Deputy Commissioner
of Police(Hq.I),
M.S.O. Building,
I.P. Estate,
New Delhi.

... Respondents

By Advocate: Shri Jog Singh

O R D E R

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

The grievance of the applicant is that by the order dated 20.1.94 the candidature of the applicant was cancelled and a representation was also rejected by the order dated 23.3.94. In this application filed on 7.5.94, the applicant has prayed that both the aforesaid orders cancelling his candidature for the post of Constable in Delhi Police dated 20.1.94 and dated 23.3.94 be quashed with directions to the respondents to issue the appointment letter for the said post to the applicant.

2. The respondents contested the application and stated that the character verification report received from the local police revealed that the applicant was involved in a FIR No.23 dated 5.9.91 under section 294 of the IPC at P.S. Sampla, District Rohtak(Haryana) on which he was acquitted on 3.3.92 by the court of J.M. Rohtak,Haryana. This fact was concealed by the applicant in the Attestation Form and the candidature was cancelled for the post of Constable(Executive). The order dated 23.5.94 was passed by the Deputy Commissioner of Police on the representation that his representation against the order dated 20.1.94 has been examined and his request could not be acceded to. In view of this the respondents have taken the stand that since the applicant has concealed the fact of his involvement in a criminal case u/s 294 IPC as referred to above, he cannot get any relief prayed for in this application. The applicant has not filed any rejoinder.

3. We heard the learned counsel of the parties at length and perused the records.

4. In this case it is material to get certain dates. The applicant applied for the post of Constable(Executive) on 3.7.91. In the application form he has submitted he has shown that he is not involved in any criminal case. The applicant thereafter was allowed to take the examination and he qualified in the written and so called for the interview as well as he appeared in the physical test.

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...3.

Thereafter the applicant was asked to fill up the Attestation Form which he submitted on 4.8.93. In the Attestation Form which he has submitted on 4.8.93 in Column No.11 he has filled the entry giving the reply in negative. Column No.11 when translated into English reads as follows:

Whether you were prosecuted in any criminal case, detained, found guilty by any court of law of any offence or whether by any Public Service Commission debarred you from participating any selection or taking any part in examination or you have been declared ineligible for any service.

Whether at the time of filing this Attestation Form whether any case is pending against ^{you} in any of the court of law.

5. The applicant has answered in negative both the above noted queries. But it appears subsequently that somebody has made a complaint and it was found that FIR was lodged against the applicant on 5.9.91 by P.S. Sampla u/s 294 IPC. The allegation against the applicant in a complaint lodged by Mohinder Singh that the applicant in the area of Bus Stand uttered obscene words to the annoyance of others and committed an offence punishable u/s 294 IPC.

The applicant had pleaded^{not}/guilty. However, no evidence was given against the applicant in the said case and the witness examined in that case stated that the applicant had not uttered any obscene words to the annoyance of others. The statement of the applicant also u/s 313 Cr.P.C. was not recorded and the applicant was given clean acquittal and completely exonerated of the charge by the judgement dated 3.3.92 by the Judicial Magistrate, Rohtak and a copy of the judgement is filed as Annexure 'D' to the application. Now the question arises that the applicant was involved in a case of which report was lodged after he has submitted his application form for the post of Constable (Executive) and before he filled up Attestation Form on 4.8.93 he had already been acquitted honourably about one year and 5 months before. As such the answer given to the second query by the applicant is fully correct as no case was pending at the time when he filled up the Attestation Form on 4.8.93. Now coming to the first query it is a complex sentence which contains 4 questions in itself. Question No.1 is whether any prosecution was launched against you and whether you were ever detained and you were found guilty of an offence and lastly whether Public Service Commission debarred you from taking any selection or examination or declared you ineligible for the service. The applicant has given the reply in negative. The understanding got by the applicant cannot be understood as that of an

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intelligent person. The Attestation Form itself is a one sentence and a small space is left in front Yes or No. It therefore gives an impression that it covers those cases where a prosecution has been launched and that ended in conviction. However, the above inference cannot be logically drawn because it is not revealed by the language used in Column No.11 of the Attestation Form. In any case taking the normal meaning of the words whether the concealment done by the applicant regarding having been prosecuted in an offence u/s 294 IPC and is subsequently acquitted would deprive him of an appointment in the police force is to be judged.

6. Firstly we find as already observed earlier that Column No.11 of the Attestation Form ambiguous as it covers 4 types of antecedents of the selected candidate. A casual reading of the Column No.11 goes to show that it covers only those cases where a person has been involved in a criminal case, detained and found guilty by court of law of an offence. It therefore excludes those cases where a person was not at the time of applying for the post of Constable was not involved in a criminal case and before filling the Attestation Form he has been honourably acquitted by the Criminal Court. Where concealment of a fact attributed to the applicant of not disclosing the fact that after applying for the post he was involved in a case u/s 294 IPC would amount such a concealment which will debar him from appointment to the post. Normally,

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it is the tendency of a person to conceal certain acts which may affect his personality and character. While deciding the fate of such a selected candidate we have to keep ^{this} in mind. In this case the learned Judicial Magistrate clearly held that there was no evidence whatsoever against the applicant to warrant his trial. The learned Magistrate therefore clearly observed as is evident from the judgement of the court on record that the applicant has been honourably acquitted. Even the statement u/s 313 Cr.P.C. of the applicant was not recorded and was dispensed with. There is observation that "the accused is acquitted honourably and completely exonerated of the charge." In such a situation it does not behove the respondents to reject the fruits of selection earned by the applicant. There is nothing in the character verification obtained by the respondents that the applicant's conduct has been of criminal nature or that he has been involved in a number of criminal cases. Merely because there is some report lodged at the Police Station under a particular Section, will not attach any stigma to the character of a person for all times to come. It is the ultimate result of any such proceedings which will give an idea about the criminal tendency of such a person. The concealment, if any, by the applicant in the circumstance of the case does not appear to be deliberate. Seeing to the village life the education of the applicant we do not find that

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the applicant had purposely applied fraud or cheating on the respondents to conceal the fact. The learned counsel for the applicant has also referred to a number of earlier decisions decided by this Tribunal in O.A. No.2170/92 Shri Shish Pal Vs. UOI & Ors decided on 7.4.93. In this judgement there is also a reference in para 4 (Annexure 'G') of a number of other judgements wherein a similar point was involved and the petitioner of that case was allowed to be considered for appointment by the respondents.

7. The basic purpose of character verification is before giving an appointment that a person of shady character be not given an appointment in a disciplinary force like Delhi Police. The antecedents of the applicant in no way can be said to be not above board. Merely committing the mistake, if it can be termed in that manner of concealing a fact which is also not deliberate, should not deprive the applicant of an appointment to the post of Constable. This is particularly so as Column No.11 of the Attestation Form is not clear and is ambiguous. We have also to see the allegations levelled against the applicant in the said criminal case the occurrence of which is a Bus Stand and a person has lodged a report that some obscene language was used by the applicant. In such a situation

it cannot be said that the applicant was at fault in concealing a fact of his involvement after submission of the application form in a criminal case where before filling the Attestation Form he has already been given a clean and clear acquittal. The stand of the respondents is only that the applicant has concealed his involvement in a criminal case. While filling up the Attestation Form it is not the case of the respondents that the applicant is of weak moral character.

8. In view of the above facts and circumstances, the application is allowed with the following directions.


The respondents shall consider the case of the applicant for appointment to the post of Police Constable in the light of the above observation and the concealment of an alleged fact of involvement of the applicant in a criminal case shall not be considered as a hurdle in his appointment. If the applicant is otherwise upto the mark then he deserves to be appointed to the post of Constable.

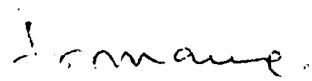
The respondents to comply with the above directions within a period of 3 months from the date of receipt of this order and convey the same to the applicant.

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In case the applicant is appointed,
he shall get his seniority and other
benefits from the date he is given
appointment to the post of Constable
in Delhi Police.

Parties are left to bear their own
cost.


(B.K. SINGH)
Member (A)


(J.P. SHARMA)
Member (J)

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