

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 1716 of 1994

New Delhi, dated this the 14th February, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Shiv Kumar Kaushik,
Vill. & P.O. Ashawari,
Dist. Bulandshahar,
U.P. APPLICANT

(By Advocate: Shri S.K.Gupta)

VERSUS

1. Commissioner of Police,
Police Hqrs.,
M.S.O. Building,
New Delhi.
2. N.C.T. of Delhi,
through the Chief Secretary,
Old Secretariat,
Delhi. RESPONDENTS

(By Advocate: Shri Arun Bhardwaj)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant has impugned the dismissal order dated 4.12.92 (Ann. I) and the appellate order dated 2.4.93 rejecting the appeal (Ann. II).

2. Applicant was proceeded against departmentally on the charge that he had got himself enrolled as a constable in Delhi Police fraudulently on 7.8.91 by concealing the fact that he had earlier been enlisted in BSF as a constable on 1.4.88 and was dismissed

17.6.90 for unauthorised absence from duty from there w.e.f. 1/1, which fact came to light after an inquiry was conducted on an anonymous complaint dated 4.11.91. (A)

3. In the D.E., the E.O. held the charges as proved. Tentatively agreeing with the E.O's findings, a copy of the same was served on the applicant and his show cause reply was considered by the disciplinary authority, and he was also given a personal hearing. Rejecting the applicant's reply, the disciplinary authority imposed the punishment of dismissal from service, which was upheld in appeal, against which this O.A. has been filed.

4. Two grounds were pressed during hearing. Firstly it was contended that letter dated 2.1.92 from Office of Commandant B.S.F. addressed to Dy. Commissioner of Police, III Batalion, D.A.P. (Ann. R-II) where applicant had obtained employment had not been 'proved' during the D.E. and the dealing assistant of Establishment Branch of BSF was not examined. Secondly, it was urged that there had not been any finding of grave misconduct and incorrigibility under Rule 8(a) and 10 Delhi Police (P&A) Rules to warrant dismissal from service. The C.A.T., Principal Bench ruling in OA No. 802/90 Shri Dalip Singh Vs. L.G. Delhi & Ors. delivered on 23.9.94, against which SLP No.12208/95 was dismissed by the Hon'ble Supreme Court on 12.5.95 was cited in support of the second ground.

5. As regards the first ground, the application form and attestation form for recruitment of constables in Delhi Police itself clearly mentions that if any information is found incorrect or any fact is concealed, the services of the individual may be terminated at any time. The applicant admits that he served the B.S.F. but claims that he voluntarily resigned from there before enlistment in Delhi Police. Even if for a moment this claim is accepted, the applicant is guilty of knowingly concealing the fact of his previous employment in BSF and furnishing incorrect information in his application form and attestation form, which would entail termination of service in terms of the conditions set out in the application form and attestation form noticed above. In the present case the letter dated 2.1.1992 from office of the Commandant, B.S.F. to Deputy Commissioner of Police, III Battalion, D.A.P. (Ann. R.II) was exhibited in the D.E., which clearly stated that the applicant had been dismissed from B.S.F. Similarly the anonymous complaint dated 4.11.91 was exhibited in the D.E. by P.W. Head Constable Shri Dinesh Kumar, who was also cross-examined by the applicant.

A-

The letter dated 2.1.92 is an official document, and there is a strong presumption of the correctness of official documents. The burden of proof was on the applicant to disprove the correctness of the official letter dated 2.1.92, and the applicant was not able to discharge that burden satisfactorily. Respondents are on record in their reply as stating that despite best efforts the dealing assistant in Estt. Branch of B.S.F. could not be examined as a P.W. as he was deployed in a sensitive area and could not be spared to depose in the D.E. Even without his deposition, the contents of the anonymous complaint dated 4.11.91, which was exhibited in the D.E. by Prosecution Witness H.C. Shri Dinesh Kumar, who was also cross-examined by the applicant, read with the contents of official letter dated 2.1.92 which was also exhibited in the D.E., are sufficient evidence to conclude that the applicant was previously employed in B.S.F. and had not voluntarily resigned, but was dismissed from B.S.F. before seeking enlistment in Delhi Police and had deliberately concealed this fact of his dismissal both in the application form as well as in his attestation forms. Hence this ground fails.

A

6. Coming to the second ground, manifestly in the facts and circumstances of the present case, no finding of grave misconduct and incorrigibility needed specifically to be recorded in the background of Rule 8(a) and 10 D.P. (P&A) Rules, before the respondents dismissed the applicant from service. Having been dismissed from the B.S.F., the applicant was ineligible for employment in Govt. A D.E. was conducted in which sufficient evidence was produced to establish that the applicant had indeed been dismissed from the B.S.F. and the applicant had secured employment in Delhi Police by furnishing false information and concealing material facts in his application form as well as attestation form, and as per conditions

contained therein, misconduct was liable to termination from service. Under the circumstance no separate finding of gross misconduct and/or incorrigibility required to be recorded in the facts and circumstances of this particular case, as the applicant by virtue of his past dismissal in B.S.F. was ineligible for employment in Govt. and the applicant by violating the terms and conditions set out in the application/attestation forms rendered himself liable for termination from service. Hence the judgment in Dalip Singh's case (supra) is of no assistance to him.

13

7. This O.A. therefore warrants no judicial interference. It is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)
/GK/

S.R. Adige
Member (A)