CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.270/2000 with OA No.290/2000

New Delhi, this 22nd day of September, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri M.P. Singh, Member(A)

OA No.270/2000
Ex.Constable Ajeet Yadav, No.6575/DAP
Vill. & PO Tohfapur
District Meerut, UP .. Applicant

(By Shri Shankar Raju, Advocate)

versus

Union of India, through

1. Secretary
   Ministry of Home Affairs
   North Block, New Delhi
2. Commissioner of Police
   Police Hqrs., IP Estate
   MSO Building, New Delhi
3. Dy. Commissioner of Police
   2nd Bn, DAP, New Police Lines
   Kingsway Camp, Delhi .. Respondents

(By Mrs. Meera Chhibber, Advocate)

OA No.290/2000
Ex.Constable Vikas Babu, Roll No.323557
Vill Halalpur, PO & PS Chaprauli
District Bagpat, UP .. Applicant

(By Shri Shankar Raju, Advocate)

versus

Union of India, through

1. Secretary
   Ministry of Home Affairs
   North Block, New Delhi
2. Commissioner of Police
   Police Hqrs., IP Estate
   MSO Building, New Delhi
3. Addl. Commissioner of Police
   South District
   Hauz Khas, New Delhi .. Respondents

(By Shri Rajeev Sharma, Advocate)

ORDER

Shri M.P. Singh

The legal points involved and the reliefs prayed for in both these OAs are identical and therefore we proceed to dispose of the same by a common order.

2. The applicant in OA No.270/2000 is aggrieved by the order dated 21.10.99 passed by R-3 terminating his services under Rule 5(1) of the CCS(Temporary Service) Rules, 1965. The case of the applicant, as stated by him, is that he was falsely implicated in FIR No.244 in the year 1994. He was acquitted from the criminal charge on merit by the Trial Court on 27.10.98. He was issued a show cause notice dated 20.8.99 by the respondents proposing to terminate his services on the ground that he had given wrong information and adopted deceitful means to gain entry in the service. Applicant contends that he had filled up his application inadvertently but subsequently in the attestation form he had corrected the inadvertance. According to him, the respondents without application of mind terminated his services by a non-speaking order. He preferred a representation to the Commissioner of Police who rejected the same. He has claimed that his case is covered by the circular of Delhi Police issued in 1993. He has also relied upon this Tribunal's judgement in **Jagmal Singh Vs. Commissioner of Police in OA No.1525/94** decided on 19.4.95. Aggrieved by the order of termination dated 21.10.99, the applicant has filed this OA seeking direction to set aside the impugned order of termination (Annexure A-2) and show cause notice dated 20.8.99 and for directing the respondents to reinstate him in service with all consequential benefits.

3. Respondents have contested the case and stated that the applicant was selected as Constable provisionally during the recruitment held in 1998 subject to verification of his character and antecedents. The applicant joined as Constable on 11.11.98. At the time of joining an undertaking was given by him that "he was neither involved/arrested/prosecuted/convicted/bound over/intended/externed/nor dealt with under any law in force in any criminal case and at present no case/court proceeding is pending against him". On receipt of his character and antecedents report from SSP/Meerut, UP, he was found to be involved in a criminal case under FIR No.244/94, u/s 147/148/149/302 IPC, PS/Icholi. Although he was acquitted in the above case but he did not disclose this fact either in the application form or in the undertaking filled by him on 8.6.98 and 11.11.98 and tried to seek appointment in Delhi Police by adopting deceitful means by concealing the above facts. However, in the interest of justice and to give him an opportunity to explain his defence, a show cause notice for termination of his service was issued and he was also given a personal hearing. But he failed to give any convincing/satisfactory explanation in his defence. Therefore, his services were terminated under rule 5(i) of CCS(Temporary Service) Rules, 1965. He also preferred a representation to the Commissioner of Police but the same was rejected in view of the judgement delivered by the apex court in a similar case i.e. **Delhi Admn. Vs. Sushil Kumar in Civil Appeal No.13231/96**, decided on 4.10.96.

4. The applicant in OA No.290/2000 was involved in two criminal cases. He did not disclose these facts either in the application form or in the undertaking filled up by him and sought appointment in Delhi Police by concealing the above mentioned facts. He, however, rather made a mention of one of the criminal cases pending in the court in the attestation form. His services were also terminated under Rule 5(i) of CCS (Temporary Service) Rules, 1965 on the ground of concealing the facts of his involvement in FIR No.27/96 u/s 147/148/323/324/504 IPC and FIR No.86/98 u/s 147/148/149/307/504/506 IPC at the time of sending application form for recruitment in Delhi Police.

5. We have heard the learned counsel for both contesting parties and perused the records.

6. From the records placed before us we find that the applicant in OA No.270/2000 while submitting his application form for the post of Constable and also in the undertaking given by him has declared that he was neither involved nor arrested/prosecuted/convicted, bound over, interned, externed nor dealt with under any law in force in any criminal case and that no criminal case or court proceeding is pending against him. In Col.11 of attestation form also he has not disclosed the information about his involvement in the criminal case. He has, however, replied in affirmative to a question as to whether any proceeding is going on in the court against him under sub-clause of Col.11. During the course of the arguments, the learned counsel for the applicant stated that the case of Jagmal Singh

(supra) is applicable in the case of the applicant. However, after perusing this judgement, it is seen that the facts and circumstances in the instant case are not the same as that of Jagmal Singh, as in that case the candidate himself revealed his involvement in a criminal case and his case was therefore covered under the circular of the Delhi Police issued in 1993.

7. During the course of the arguments, the learned counsel for the respondents drew our attention to the judgement in the case of Sushil Kumar (supra). Keeping in view the facts and circumstances of Sushil Kumar's case, the present OAs are squarely covered by the judgement of the apex court. In the case of Sushil Kumar (supra), the apex court has held as under:

> "....It is seen that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was physically found fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. the Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences. The consideration relevant to the case is of the antecedents of the candidate. Appointing authority, therefore, has rightly focussed this aspect and found him not desirable to appoint him to the service" (emphasis added).

8. We are of the view that the applicants in the present OAs have deliberately tried to give false information relating to their involvement in criminal cases, which are very material for being considered for appointment as Constables in Delhi Police. As held by the Hon'ble apex court, the verification of the character and antecedents of the selected candidates for posts in a disciplined force is very material. Therefore, considering the facts of the case, it cannot be held that the competent authority in considering the suitability of the applicants to continue in service as Constables acted in an arbitrary or unreasonable manner which justifies any interference in the matter.

9. In view of the above position, we do not find any merit in these two OAs and they are dismissed accordingly. No costs.

(M.P. Singh)
Member(A)

(Ashok Agarwal)
Chairman

/gtv/