

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

OA NO. 956-2000

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri Govindan S. Tampi Member (A)

New Delhi, this 9th day of February 2001.

Shri Girdhari Lal, Roll No. 305521
Previously selected in Delhi Police,
R/o V-829, Gali No. 16A, Vijay Park,
Mauj Pur, Shahadara, Delhi.

.....Applicant

(By: Shri Sachin Chauhan, Advocate)

Versus

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Addl. Commissioner of Police, Establishment,
Police Headquarters, IP Estate,
MSO, Building, New Delhi.
3. Dy. Commissioner of Police,
2nd Bn, DAP,
Kingsway Camp, New Police Lines,
Delhi.

.....Respondents.

(By: Shri Ashwani Bhardwaj, Advocate)
proxy for Shri Rajan Sharma.)

. O R D E R

By Hon'ble Shri Govindan S. Tampi, Member (A)

Show Cause Notice dated 16.4.99 issued to the applicant alongwith the order of cancellation of candidature, dated 17.7.99 and rejection of representation dated 8.2.2000 ~~is~~ impugned in this application.

2. Show Cause Notice was issued on 16.4.99 to the applicant Sh. Girdhari Lal, who was provisionally selected for the post of Constable in Delhi Police, proposing the cancellation of his candidature, on the ground that he had suppressed the fact about his

involvement in a criminal case. Though in his reply the applicant indicated that he had himself furnished the information, albeit subsequently, the respondent rejected his contention and cancelled his candidature on 17.7.99. His father's representation in this regard also was rejected on 8.2.2000. Hence this application.

3. Heard both the Counsel for the applicant as well as the respondents. Reiterating the written pleas in the application, Sh. Sachin Chauhan, learned counsel for the applicant states that he was falsely, implicated in a criminal case by his uncle on 27.10.93 in which he was acquitted on 30.11.94. Nearly four years after, when he was selected for the Delhi Police, on 9.10.98, he had omitted to mention the details of the case in the attestation form, due to inadvertence. Later, when his father who was working as Sub Inspector of Police came to know of this error, he sought on 23.2.99, a personal hearing with the Dy. Commissioner, filing along with the request, an application from the applicant stating that the police verification report given by Bhajanpur Police Station was incorrect as the false criminal case got initiated against him by his uncle had been disposed of, by his acquittal on 30.11.94 itself. Still, the show cause notice was issued to him on 16.4.99. In spite of his explaining the situation and that his failure to mention the details of pointing out of the case was only an 'inadvertent mistake' and that he had brought this to the notice of the department on 23.2.99 itself the

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respondent, had incorrectly and improperly cancelled his candidature. Shri Chauhan, the learned Counsel has strenuously argued that as the applicant had 'voluntarily' disclosed the details of the criminal proceedings before the issue of the SCN and the proceedings had themselves ended in his honourable exoneration failure to mention it was only a mistake and his case was squarely covered by the decision of the Hon'ble Supreme court in Commissioner of Police Vs. Dhawal Singh [Civil Appeal No. 2537/98, (1999) 1. Sec. 246]. Respondents' action in relying upon the decision of the ^{Supreme} Court in Sushil Kumari's case ^[Civil Appeal No 13231] was not tenable and proper in the facts and circumstances of the case, according to the learned counsel.

4. Both in his written pleas and oral submission Sh. Ashwini Bhardwaj, learned counsel for the respondents stoutly contested the applicant's claim. He pointed out that not only had the applicant omitted to furnish the details of the Criminal Case, in which he was involved, in his attestation form but he had ^{also} compounded his omission, by filing the undertaking dated 14.11.98, wherein he has denied any involvement in any proceedings, past or present and indicated his willingness to forego the claim for the appointment if his above averment was proved wrong. Sh. Bhardwaj stated that only on a much later date i.e. 16.4.99, he referred to his mistake of indicating 'no' in his attestation form, relating to details about the Criminal proceedings, on which date

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Show Cause Notice itself had been issued. The applicant's reference to his father's letter dated 23.2.99 as well as his own application on the same date, presumably issued after coming to know that the result of the early police verification ^{had} gone against him was of no relevance, in the circumstances of the case. The department had correctly relied upon the decision of the Supreme Court in the case of Delhi Administration Vs. Sushil Kumar in Civil Appeal No. 13231/1996 and the reliance placed by the applicant on Dhaval Singh's case was incorrect. In the above circumstances according to the counsel, no interference by the Tribunal was called for.

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5. We have carefully considered the matter. The undisputed facts in this case are that the applicant who was involved in the criminal proceedings, wrongly according to him, and acquitted in 1994, had failed to furnish the details about it in his attestation form filed on his selection to Delhi Police in 1998. Only during February 99, when he came to know that the police verification given by the Bhajanpur Police Station had brought this out, that the applicant and his father attempted to correct the 'error' and make amends. Even this communication did not give out the full details. Only on 16.4.99, he had given a more detailed version indicating that in his confusion he had filled 'no' in the column relating to proceedings, the attestation form. This cannot be considered as 'voluntary' admission which would absolve him of his responsibility. Being one selected to a disciplined/uniformed service like 'Police', it was incumbent on him to furnish the full and

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correct details in the attestation forms, more so as in the criminal proceedings he had been 'honourably' acquitted. He had not chosen to do so. This failure on his part is compounded by his undertaking given on 14.11.98, which reads as under:

"I, Girdhari Lal, roll No. 305521 do hereby solemnly affirm that I have not concealed any facts in the application form as well as in the attestation form. I hereby further declare that I was neither involved, externed nor dealt with under any law in force in any criminal case and that no criminal case or Court proceeding is pending against me at present.

I do hereby also state that my selection to the post of Constable (Exe.) in Delhi Police is purely provisional & Temporary, subject to the verification of my character & antecedents and the documents submitted by me in support with my application form. In case if any document/certificate/declaration is found to be false or adverse character & antecedents report is received, my aforesaid selection shall be liable to be cancelled and my services shall be liable to be terminated. further in the event of above, I shall not claim anything for the post of Constable (Exe.) in Delhi Police."

He was thus fully aware of the consequences of a wrong declaration. Therefore the reliance placed by him on the decision of the ^{Hon'ble} Supreme Court in the Dhaval Singh's case ^(supra) does not help him at all. The following portion of the said judgement would make it clear that the said case referred to an 'advertant mistake', the information about which was conveyed 'voluntarily'.

"A perusal of the order of the Deputy Commissioner of Police cancelling the candidature on 20.11.1995 shows that the information conveyed by the respondent on 15.11.1995 was not taken note of. It was obligatory on the part of the appellant to have considered that application and apply its mind to the stand of the respondent that he had made an inadvertent mistake before passing the order. That, however, was not done. It is not as if information was given by the respondent

regarding the inadvertent mistake committed by him after he had been acquitted by the trial court--it was much before that. It is also obvious that the information was conveyed voluntarily."

This definitely was not the case of the applicant as correctly pointed out by the respondents. On the other hand, the circumstances of the case would be squarely covered by the decision of the Supreme Court in Sushil Kumar's case (supra), the relevant portion from which reads as under:-

"Verification of the character & antecedent 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 records, 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 back ground of the case can't be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for re-consideration of this 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 of character of 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 to the service."

Therefore we cannot find fault with the respondents for coming to ^{the} decision that the applicant by his deliberate suppression of material facts about his involvement in a criminal case, was not ^{a person} fit to be entertained in the Police force. The said decision, in fact would merit total endorsement.

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6. In the above view of the matter we are of the considered opinion that the applicant has not made out any case for our interference. The application therefore fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)
Member (A)

/Patwal/

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)