

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.1172 of 1989

New Delhi dated this the 24th March 1994.

Mr. Justice V.S. Malimath, Chairman

Mr. S.R. Adige, Member(Admn.)

Shri Subhash Chand,
S/o Shri Rajbir Singh,
R/o House No.149,
Village and Post Office Chhawla,
New Delhi 110 071

... Applicant

By Advocate : Shri G.D. Gupta.

versus

1. Delhi Administration through its

Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. The Commissioner of Police,
Police Headquarters,
M.S.O. Building, I.P.Estate,
New Delhi.

3. The Dy.Commissioner of Police,
Police Control Room,
Serai Rohilla,
Delhi 110 007.

... Respondents

By Advocate : Shri Amresh Mathur.

O R D E R (Oral)

By Mr. Justice V.S. Malimath.

The petitioner was appointed as Constable (Driver) in the Delhi Police. His services were terminated by Annexure A-3 order dated 13.5.88 after prior issue of notice as per Annexure A-1 under Rule-5(i) of the Central Civil Services (Temporary Service) Rules, 1965.

2. The impugned order of termination does not cast any stigma on the petitioner. The petitioner has challenged the order on the ground that though he was a temporary employee whose services could be terminated

under Rule 5(i) of the Central Civil Services (Temporary Service) Rules, 1965, the respondents cannot arbitrarily terminate his services while retaining the services of other temporary employees, who are juniors to the petitioner. The respondents, therefore, are required to justify the steps taken by them in the light of the allegations of arbitration and violation of article 14 and 16 of the Constitution.

3. The respondents have now disclosed the reasons for the order. They have furnished the background in the reply filed by them and the same have been at more than one place in the reply. We would like to advert to the specific reply given in para 5(b) of the counter, which reads as follows:-

"The the contents of para(b) of the grounds are not admitted. The applicant was discharged from the Army due to plural marriage but at the time of his enlistment in Delhi he concealed the facts and mentioned the reason in 'Attestation Form' at column No.11(C) as resignation and also furnished incorrect information in Enlistment Application Form and violated C.C.S. (Conduct) Rules 1964. Shri Rishal Singh s/o Sh. Bharat Singh r/o Village Badli Tehsil Bahadurgarh, Distt. Rohtak (Haryana) made a complaint against the applicant that he has two wives living. The applicant admitted the facts and gave in writing in this regard on 10.6.87. He also submitted an application in response to the termination notice which are on record. As such the applicant was fully aware about the reasons for which his services were terminated."

...3...

4. In the rejoinder filed by the petitioner, there is a clear admission that he has two wives. He has also admitted that he was dismissed from Army service on the ground of his plural marriage. He, however, took the stand that he cannot be terminated for concealment of the facts on the ground that he has enclosed the military discharge certificate along with his application. He has produced a copy of the same as Annexure A-2. Para-2 of the said certificate says that he has been dismissed from service in consequence of plural marriage. Thus, so far as the fact of plural marriage is concerned the petitioner does not dispute. A person who has two wives at the time of his enlistment in the police service would not have been employed. It is not necessary for us to go further, to examine as to whether, there is a deliberate concealment by the petitioner of this fact, or not. Even assuming for the sake of argument there is no concealment of the fact and the authorities have no notice, and when this aspect of the matter came to their notice, the question for consideration would be as to whether, in such circumstances his services could be terminated. It is necessary to point out that the petitioner is only a temporary Government employee and therefore, his services could be terminated without holding any enquiry or assigning any reasons. The termination of his services in preference to his juniors can be justified as he is only a temporary Government servant. As he had two wives at the relevant point of time, it was a good reason to terminate his services in preference to his juniors. On this short ground, we decline to interfere in the matter and dismiss the application as devoid of merit. No costs.

Adige
(S.R. ADIGE)
MEMBER(A)
24.3.94

kam240394

Malimath
(V.S. MALIMATH)
CHAIRMAN
24.3.94