

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

O.A.No.1329/88

Date of decision: 17.12.91

Shri Adesh Kumar ... Applicant.

Versus

Delhi Administration ... Respondents.
through its Chief Secretary &
another

CORAM:

The Hon'ble Sh.Justice V.S.Malimath, Chairman.
The Hon'ble Shri. D.K.Chakravorty, Member(A).

For the Applicant ... Shri Ashok Agarwal, Counsel.

For the respondents ... Shri Om Prakash, S.I.

J U D G E M E N T

(Judgement of the Bench delivered by Hon'ble
Sh.Justice V.S.Malimath, Chairman).

The Appointing Authority had decided to call for the names from Employment Exchange for appointment to the post of Police Constable from persons who were registered with it on or before 15.4.1987. Obviously, this is done to limit the number of candidates for scrutiny having regard to the well known fact that a large number of candidates are normally registered with the Employment Exchange. It is on that basis that the names were sent from the Employment Exchange for consideration by the Appointing Authority. The information furnished so far as the applicant is concerned, a copy of which is produced as Annexure 'B', gives the date of registration as 14.5.1986. That being the position, the Appointing Authority proceeded to consider the candidature of the applicant as he had fallen within the range of consideration. But before any order of appointment as such could be issued in favour of the applicant, the authorities discovered on further verification that the registration of the applicant was not before the date fixed by them. Hence, it was felt that the applicant was not within the range

of consideration and, therefore, his candidature could not be considered. He was accordingly informed about it. The applicant not being satisfied with what was done by the Appointing Authority, appears to have approached the Employment Exchange Officer to inform him about the correct facts. On his letter, Annexure 'C', there appears to be an endorsement dated 20.11.1987 from the authority of the Employment Exchange, Muzaffer Nagar saying that his date of registration is 14.5.86. This undoubtedly supports the claim of the applicant that he is well within the range of consideration. The applicant, therefore, produced the same and made a request to the Appointing Authority that his candidature should be considered and an order of appointment be issued in his favour as he stood qualified in all the tests held for the purpose. His claim not having been considered and no reply having been furnished, the applicant has approached this Tribunal for appropriate relief.

2. The applicant has taken the stand that the Employment Exchange card clearly shows the date of registration as 14.5.1986 and if the Appointing Authority were to treat this as a document fabricated by the applicant and relied upon, they should have given him an opportunity to show cause before cancelling his candidature. It is his case that the principles of natural justice requires such an opportunity being given. The stand taken in the counter-affidavit filed by the respondents is that the Employment Exchange Officer was contacted and a Sub-Inspector was deputed to make inquiries into this matter. He personally went to the Employment Exchange Officer, Muzaffer Nagar to verify the true facts. It is further stated that the Employment

Officer, on further scrutiny furnished the information that the registration was done on 14.5.1987 and not on 14.5.86.

3. We have, therefore, the statement of the applicant supported by Annexure 'B' issued by the Employment Exchange and the endorsement of the Employment Officer filed as Annexure 'C' dated 20.11.1987. On the other hand, we have the counter-affidavit as also the communication of the Employment Exchange Officer furnished on further verification and produced along-with the counter-affidavit. The said communication is from a very responsible authority of the Employment Exchange which supports the stand taken by the respondents. We have, therefore, to examine as to which of the two versions is true and worthy of acceptance.

4. We are inclined to take the view on the facts and circumstances of the case that the question of holding enquiry did not arise in this case. This is not a case in which the applicant was appointed to a particular post and thereafter deprived of the said post. This is also not a case in which the foundation for the action is any conduct of the applicant which he may be in a position to explain if an opportunity is given to him. This is a case in which the action of the Employment Exchange Officer was required to be scrutinised. It is the record furnished by them which is found to be erroneous. Hence, in regard to an error committed by the Employment Exchange Officer, the question of opportunity being given to the applicant to show cause does not arise. Similar is the view taken by the Tribunal in an earlier decision rendered on 9.12.91 in O.A. No.754/89 and connected cases. As the foundation of the action taken to cancel the candidature of the applicant is not the conduct of the applicant but the error committed by the Employment Exchange, we are inclined to take a view

that the principles of natural justice are not attracted justifying an opportunity being given to the applicant to show cause.

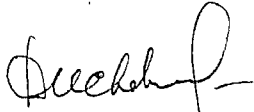
5. On merits, it is obvious that the authorities cannot act arbitrarily. They can only act after taking into consideration the relevant facts and circumstances. The question for consideration, therefore, is as to whether there is substance in the contentions put forth by the learned counsel for the applicant that the applicant was registered on 14.5.1986 as asserted by him and not on 14.5.1987 as asserted by the respondents and certified by the authority of the Employment Exchange Officer in his communication dated 14.1.1988 produced alongwith the counter-affidavit. The intrinsic material which supports the case put forth by the respondents and the documents relied upon by the applicant (Annexure 'B') clearly shows that the number of registration with the Employment Exchange is 3701/87. It undoubtedly shows that the registration was in the year 1987 and not in the year 1986. If the applicant was registered on 14.5.1986, then it would have borne the number of the year 1986. The fact that it bore the year of registration as 1987 clearly indicates that what has been stated by the respondents and the Officer of the Employment Exchange is true. We have, therefore, no hesitation in taking the view that the candidature of the applicant was originally considered on the basis of the incorrect information furnished by the Employment Exchange which on further verification having been found to be incorrect, the Appointing Authority was justified in cancelling the candidature of the applicant as he did not fall within the range of consideration.

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We are, therefore, not inclined to interfere and the O.A.
is dismissed.

There shall be no order as to costs.



(D.K.CHAKRAVORTY)

MEMBER(A)



(V.S.MALIMATH)

CHAIRMAN

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