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Central Administrative Tribunal  
Principal Bench, New Delhi

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Regn. No. OA-880/87

Date: 2-5-1988.

Shri Ved Prakash ..... Applicant

Versus

Union of India & Ors. .... Respondents

For the Applicant ..... In person

For the Respondents ..... Shri K.C. Mittal, Advocate.

CDRAM: Hon'ble Shri B.C. Mathur, Vice-Chairman (Admn.)  
Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)

1. Whether Reporters of local papers may be allowed to see the judgement? *yes*
2. To be referred to the Reporter or not? *yes*

(Judgement of the Bench delivered by Hon'ble  
Shri P.K. Kartha, Vice-Chairman)

The applicant, who was working as a Peon in the Ministry of Human Resources and Education, Government of India, filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that the impugned order dated 3rd June, 1987 whereby his services were terminated in exercise of the powers conferred by Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, be quashed. The application was admitted on 2.7.1987 when another Bench of this Tribunal passed an interim order to the effect that the respondents shall continue the applicant in service pending further orders. The interim order was, however, vacated by the same Bench on 28.8.1987 when it was brought to notice that the applicant had suppressed the fact that he was arrested in a criminal case and in terms of employment of service, he was liable to be terminated. Since then, he has not been in Government service.

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2. The facts of the case in brief are as follows. The applicant was sponsored by the Employment Exchange for appointment as a Peon in the Ministry of Human Resources & Education in December, 1985. He was appointed as a Peon on ad hoc basis w.e.f. 5.2.1986.
3. On 20.10.1986, the respondents received a written complaint against the applicant in which it was alleged that he was the actual resident of Badshahpur village and got his employment on the basis of forged documents and by giving wrong address to the Employment Exchange and that he was involved in a criminal case which was sub judice in the Court of Senior Sub-Judge-cum-Judicial Magistrate.
4. In view of the aforesaid allegations, the respondents sought to verify the antecedents of the applicant through the concerned authorities at Delhi and Gurgaon.
5. It came to light that the applicant was not residing at the Delhi address given by him and that he was a permanent resident of village Badshahpur and the Delhi address given in the Attestation Form, was not his and that he was facing prosecution in a criminal case.
6. The contention of the respondents is that according to the particulars furnished by the applicant in the Attestation Form for verification of character and antecedents, he had given false information against item No.12. In item 12 of the Attestation Form, against the queries whether he has ever been arrested and whether he has ever been prosecuted, the applicant has given the answer in the negative. The Attestation Form also contains a warning to the effect that "if the fact that false information has been furnished or that there has been suppression of any factual information in the Attestation

Form comes to notice at any time during the service of a person, his service would be liable to be terminated."

7. In view of the discrepancies in the information furnished by the authorities concerned and that given by the applicant in the Attestation Form, the respondents served a notice on the applicant on 3.6.1987 stating that his services would be terminated after the expiry of one month, i.e., on 3.7.1987.

8. The contention of the applicant is that he did not deliberately give false information in the Attestation Form and that the complaint made to the respondents was at the instance of some relative of his who was inimically disposed towards him. He had furnished in his Attestation Form his temporary address at Delhi and permanent address at Gurgaon. In fact, he had stayed at Delhi where his sister was residing. As regards his implication in a criminal case, he has stated that he was not aware as to whether in the absence of conviction and imprisonment, he should have answered the queries in item 12 of the Attestation Form in the affirmative. He was under the bona fide belief that these entries connoted conviction and imprisonment and that he had neither been convicted nor imprisoned after prosecution.

9. During the pendency of the application, the applicant filed MP-1753/87 enclosing therewith a certified copy of the judgement dated 25.8.1988 delivered by the Additional Chief Judicial Magistrate, Gurgaon in case No.169/2. In this case, FIR No.60 of 25.2.1985 under Section 377/34-IPC had been lodged in the Police Station, Sadar ~~in~~ Gurgaon, against three persons, including the

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applicant. The allegation in the FIR was that on 24.4.1985 Om Prakash, one of the accused persons, in furtherance of the common intention and with the help of his co-accused, Shimbhu and the applicant, had carnal intercourse against the order of nature with Jagbir Singh. The Additional Chief Judicial Magistrate acquitted all the accused holding that there was not an iota of evidence on the file to connect them with the commission of the offence of which they stand charged.

10. We have carefully gone through the records and have heard the learned counsel for both the parties. On going through the photocopy of the Attestation Form annexed to the counter-affidavit by the respondents, we have no doubt in our mind that the applicant has not given any false information as regards his present address in Delhi and permanent address at Badshahpur. In item No.13 of the Attestation Form, he has given the names of two responsible persons of Badshahpur as his referees. It is true that in item 12, he has answered the queries as to whether he has ever been arrested and as to whether he has ever been prosecuted, in the negative. The applicant has stated that he bona fide believed that the queries pertained to his conviction and imprisonment. Though F.I.R. No.60 was lodged with the Police Station at Gurgaon on 25.2.1985, there is nothing on record to indicate that at the time the applicant signed the application form on 4.2.1986 or at the time of his appointment on 5.2.1986, the criminal trial had commenced. There is also nothing on record to indicate that criminal trial had commenced on 20.10.1986, when the department received a written complaint against

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the applicant. The Court of Additional Chief Judicial Magistrate has also acquitted all the accused finding that there was no evidence to sustain the story of prosecution. In the facts and circumstances of the case, we are of the opinion that this is not a case in which the applicant wilfully concealed the truth <sup>while</sup> filling up the Attestation Form. For arriving at the conclusion that there was wilful concealment, the element of guilty mind should be present. There is nothing on record to indicate that the applicant furnished false information wilfully. As the Criminal Court has finally exonerated all the accused, this is a fit case in which a lenient view has to be taken, particularly in the case of the applicant who was at the threshold of his career in Government service. In the context of verification of character and antecedents, at the time of entry into public employment, the following observations made by Chinnappa Reddy J. in State of Madhya Pradesh Vs. Ramshanker Raghuvanshi and Another, 1983 (2) S.C.C. 145 at 148, is worth pondering over:-

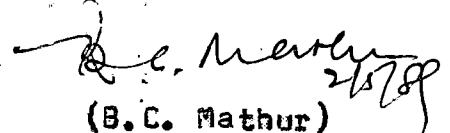
"Should all these youngmen be debarred from public employment? Is Government service such a heaven that only angels should seek entry into it?"

11. In the light of the above, we are of the opinion that the applicant deserves to be appointed as a Peon for which he was initially selected in February, 1986. However, the department may make an entry in his service-book to the effect that the applicant had been implicated in criminal case No.169/2 before the Court of Additional

Chief Magistrate, Gurgaon and that he was acquitted by the Court vide its judgement dated 25.8.1988. The respondents may also warn the applicant to be more careful in future. The applicant has continued to be in service on the strength of the interim orders passed by us <sup>from</sup> on 2.7.1987 upto 28.8.1987, when the same were vacated. The period from 28.8.1987 upto the date of reinstatement will be treated as dies non and he will not be entitled to any back wages. His service from 5.2.1986 to 28.8.1987 would, however, count as service for all <sup>other</sup> purposes in accordance with the relevant rules.

12. The respondents shall comply with the above directions within one month from the date of receipt of a copy of this order. There will be no order as to costs.

  
(P.K. Kartha)  
Vice-Chairman(Judl.)

  
(B.C. Mathur)  
Vice-Chairman(Admn.)