

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 962/87
T.A. No.

199

DATE OF DECISION 04.01.1991

Shri Vir Pal Singh Petitioner

S/Shri B.S. Gupta & S.K. Gupta Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Mrs. Avinash Ahlawat Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

JUDGMENT

(of the Bench delivered by Hon'ble Mr. D.K. Chakravorty, Administrative Member)

The applicant, who has filed this application under Section 19 of the Administrative Tribunals Act, 1985, is aggrieved by the decision of the respondents not to appoint him as Constable in the Delhi Police in the light of the information received by them on police verification conducted by them.

2. The facts of the case in brief are as follows. The applicant was a candidate for recruitment as Constable in Delhi Police in 1985. After qualifying in the physical endurance test and the written test, he filled in the verification form and submitted the same to the respondents. However, he did not receive any offer of appointment.

3. On 19.1.1987, the respondents directed him to intimate

the present position of case No.365/81 under Section 465/467/468/471/474/120-B of the IPC, which was pending against him to which he replied to the effect that there was only one case in respect of FIR No.365/81 registered by his aunt due to family feud under Section 379 IPC which stood dismissed and he stood acquitted by judgment and order dated 6.4.1984 of the Judicial Magistrate 1st Class, Bulandshhar(U.P.) and that there was no case under Sections 465/467/468/471/474/120-B of the IPC pending against him.

4. On 1.4.1987, the respondents informed him cancelling his selection as a Constable in Delhi Police by issuing the following Memo:-

"You are hereby informed that your candidature for the post of Constable in Delhi Police has been cancelled due to concealment of facts regarding involvement in case No. 365/81 under Section 379 IPC and case No.59/86 under Sections 465/467/468/471/474/120-B.

Your all original documents are returned herewith".
(vide Annexure-7, page 27 of the paper book)

5. The applicant has contended that before filling in the attestation form, he had been told by Sh.M.A.J. Farooqi, the then DCP that as he had been acquitted by the Criminal Court by judgment dated 6.4.1984, he need not mention about it in the verification form and hence he did not mention it therein. He has also stated that several other persons similarly situated have been recruited to the Delhi Police and non-appointment of the applicant amounts to discrimination.

6. The respondents have stated in their counter-affidavit that the selection of the applicant for the post of Constable was only provisional and that no appointment letter was issued to him, as it came to their notice that he had concealed ^{the facts} about his involvement in criminal cases while filling up the attestation form submitted by him to them. The attestation form submitted by him was sent to Superintendent of Police, District Bulandshhar(UP) for verification of character and antecedents. The Superintendent of Police in turn

reported that the applicant was involved in case No.59/86 under Section 465/467/468/471/474/120-B/109 IPC (Police Station, Chandpur, Bulandshhar(U.P.). The applicant had not mentioned the facts regarding his involvement in the said case which was registered against him in the application form as well as in the attestation form which was submitted in 1985. He has also concealed the facts regarding his involvement and arrest in the said case. He has also been involved in a case No.365/81 under Section 379 IPC. Though he had been acquitted in the said case, he had not mentioned about the same in the attestation form. He was also challaned under Section 107/116 Cr.PC in which he was asked to furnish surety bond for maintaining peace. This was also not mentioned in the attestation form.

7. On the receipt of the above local police verification report, the respondents issued the impugned order dated 1.4.1987 cancelling his candidature for the post of Constable in the Delhi Police.

8. The respondents have also relied upon the decision of this Tribunal in a similar case filed by a candidate who had applied for the post in the Delhi Police in 1985 in which the application was dismissed by the Tribunal(vide judgment dated 22.1.1987 in OA 836/86 - Shri Kamod Singh Vs. Union of India & Others, Annexure R-3 to the counter-affidavit, pages 45 to 47 of the paper book).

9. We have carefully gone through the records of the case and have heard the learned counsel of both parties. The learned counsel of the applicant has relied upon numerous authorities in support of his contention* and we have duly considered them. In

* Decisions relied upon by the learned counsel of the applicant.

(i) AIR 1959 Assam 134; (ii) AIR 1975 SC 2216; (iii) 1990(1) ATJ 174; (iv) 1986(3) SLJ 79; (v) 1985(2) SCC 35; (vi) 1979(2) SLR 408; and (vii) judgment dated 6.5.85 in CWP No.304/1984, Ex. Constable Shri YashPal Singh Vs. U.O.I. & Others.

- 4 -

our opinion, the decisions relied upon by the learned counsel for the applicant are clearly distinguishable. In the instant case, the selection of the applicant for appointment as Constable in the Delhi Police was purely provisional and subject to his being found fit in all respects including the verification of his character and antecedents. Apart from the criminal case in which he was acquitted, there were two other cases pending against him, as mentioned earlier. In view of this, the decision of the respondents not to offer to the applicant appointment as Constable in the Delhi Police cannot be faulted on legal or constitutional grounds. We see no merit in the present application and the same is dismissed.

There will be no order as to costs.

D.K.Chakravorty
(D.K. CHAKRAVORTY)

ADMINISTRATIVE MEMBER

4-1-1991

P.K.Kartha
(P.K. KARTHA)

VICE CHAIRMAN(J)

4/1/91