

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1371/90
T.A. No.

199

DATE OF DECISION 11.12.1991

Shri Ramesh Chander

~~Petitioner~~ Applicant

Smt. Meera Chhibber

Advocate for the ~~Petitioner~~(s) Applicant

Versus

Lt. Governor, Delhi & Others

Respondent

Shri M.K. Sharma

Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

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? */*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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

The applicant, who was duly selected for the post of Constable Driver in the Delhi Police after passing the physical fitness test, driving test and interview, is aggrieved on account of his non-appointment to the said post. By letter dated 14.6.1989, the respondents informed him that his name had not been sponsored by the Employment Exchange for the post of Constable (Driver) in Delhi Police and that his candidature for appointment to the said post had been cancelled.

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The applicant submitted a representation to the Lt. Governor which was received by him on 19.7.1989. He was given a personal hearing on 2.8.1989 and thereafter, he wrote on his representation as follows:-

"Once he is recruited, he should not be discharged on a technical ground. He is registered with Employment Exchange, but they did not sponsor his case. We can waive these requirements."

3. The above remarks were written by the Lt. Governor on the left margin of the representation submitted by the applicant. A photocopy of the same was shown to us by the learned counsel for the applicant during the hearing of the case. The applicant sent the original to the respondents but this did not yield any results.

4. According to the respondents, the Sub-Regional Employment Officer, Employment Exchange, Pusa, New Delhi, was requested to sponsor the names of suitable candidates for the recruitment of Constable (Driver) in Delhi Police to fill up 206 posts of Constable (Driver). The Employment Officer sponsored the names of 2274 candidates of General category, including the names of Ramesh Chander, resident of Village and Post Office Ishapur, Delhi-43, without mentioning the parentage and house number, etc., of the applicant.

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5. According to the respondents, the Employment Officer sponsored the name of Ramesh Chander, whose name was registered with the Employment Exchange, Pusa, New Delhi vide Registration No.T/14086/85 dated 27.5.1985 and not of the applicant. However, the applicant being a resident of village Ishapur, received the letter No.9201/SIP/P&L, dated 11.7.1988, issued from the office of the respondents and he appeared in the Trade Test and qualified the same.

6. The Employment Officer sponsored the names of the candidates whose names had been registered with the Employment Exchange, Pusa, New Delhi, prior to 21.7.1986. The applicant's name was also registered with the said Employment Exchange vide Regn. No.T/26544/86 dated 30.12.1986.

7. No parentage name and House number was mentioned against the name of Ramesh Chander sponsored by the Employment Exchange. The applicant appeared at the interview and was selected. The respondents have contended that the applicant was not the same Ramesh Chander whose name had been sponsored by the Employment Exchange. They have also alleged that the applicant "has played foul means by representing himself (as) actual candidate taking advantage of not mentioning the name of parentage and house number, etc." According to them, there is no material on record to hold that the applicant is the same person who had been sponsored by the Employment Exchange.

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8. We have gone through the records of the case and have considered the rival contentions. In our opinion, there is nothing on record to substantiate the contention of the respondents that the Employment Exchange had sponsored the name of another person called Ramesh Chander and that the applicant had impersonated that person. In case, the respondents entertained any doubt or apprehension as to the true identity of the person, they should have undertaken a thorough probe or enquiry into the matter in order to ascertain the correct facts. The mere facts ~~which~~ ^{are} standing in the way of the applicant before us and which have been highlighted by the respondents, is that the applicant got himself registered with the Employment Exchange at a later date. In our view, this circumstance alone, without anything more, cannot render the candidature of the applicant invalid. There is no doubt about the name, parentage, house number, etc., of the applicant. The respondents do not know these particulars of the other Ramesh Chander about whom they are referring to. In fact, they have not asserted that another person by that name is alive and is contesting the selection of the applicant on the basis of impersonation or mistaken identity. In any view of the matter, the Lt. Governor had stated that the

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candidature of the applicant should be treated as valid, by waiving the condition of sponsorship by the Employment Exchange.

9. The learned counsel for the applicant submitted that the applicant has become over-aged by now and he cannot seek government employment at this age. The respondents also did not give an opportunity to show-cause before his candidature was rejected. Thereby, they violated the principles of natural justice. We are inclined to agree with the aforesaid contentions raised by the applicant.

10. In the conspectus of the facts and circumstances of the case, we partly allow the application and dispose it of with the following orders and directions:-

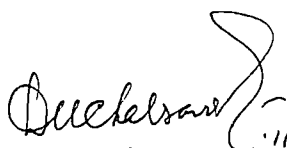
- (i) We hold that the rejection by the respondents of the candidature of the applicant for the post of Constable (Driver) is not legally sustainable. We, therefore, set aside and quash the same.
- (ii) The respondents shall appoint the applicant as Constable (Driver) on the basis of selection made by them from the date his immediate junior in the merit list was appointed. He would be entitled to the consequential benefits of seniority and the intervening period will also be counted for the purpose of qualifying service

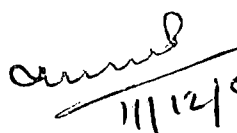
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for pension. In the facts and circumstances,
we do not direct payment of back wages to him.

(iii) The respondents shall comply with the above
directions within a period of three months
from the date of receipt of this order.

(iv) There will be no order as to costs.


(D.K. Chakravorty)
Administrative Member


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