

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 223/90
T.A. No.

199

DATE OF DECISION 1.11.1990.

Shri Hari Prashad

~~Petitioner~~ Applicant

Shri A.S. Grewal,

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

Versus
Lt. Governor, Delhi through the
Chief Secy., Delhi Admn. & Ops.

Respondent

Shri G.C. Lalwani,

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 ? *No*
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 has worked as a Constable in the Delhi Police, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside and quashing the impugned order dated 16.11.1988 passed by the Deputy Commissioner of Police, whereby his services have been terminated.

2. We have gone through the records of the case carefully and have heard the learned counsel for both the parties at the admission stage. We feel that the application could be disposed of at this stage and we proceed to do so.

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3. The facts of the case are not disputed. The applicant was appointed in Delhi Police as a Constable w.e.f. 20.5.1988. While he was undergoing his Recruit Course Training, his services were terminated by the impugned order dated 16.11.1988 which was issued pursuant to the proviso to sub-rule(1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. He made a representation to the Commissioner of Police against the impugned order in which he stated that so far as he understood, he was removed from service by way of punishment because a mention of registration of a criminal case FIR No.128/86 under Sections 147, 148, 149, 323, 324 and 325 I.P.C., P.S. Nadhai, District Bharatpur, Rajasthan, which was against his father and others, including himself. He stated that he was not involved in this case for any act/offence committed by him but his name was included due to the enmity with the complainant party. He further added that he and others were acquitted honourably by the judgement and order dated 15.12.1988 of the Additional Chief Judicial Magistrate No.2, Bharatpur, Rajasthan. He had also annexed a photocopy of the judgement to his representation. He contended that his removal from service was on account of the pendency of the criminal case. The order of termination was issued without giving a show-cause notice to him, or giving to him an opportunity to explain his conduct. The respondents have stated in their counter-affidavit that the applicant was called to join basic training w.e.f. 20.5.1988, subject to the pending verification of his character and antecedents. On 19.9.1988, while he was undergoing the training, the respondents received the

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character verification report about him which revealed that he was involved in FIR No.67/86 under Sections 147, 148, 323, 324 and 325 I.P.C., and that the case had been challaned in the Court on 23.5.1986. The applicant, however, had concealed these facts in his Application Form ^{and O} Attestation Form deliberately in order to seek appointment in the Delhi Police by adopting deceitful means. On the receipt of the said information, enquiries were made from the concerned local Police and it was found that the applicant was involved in the said criminal case. He had not mentioned his involvement in the criminal case in the Application form as well as in the Attestation Form. In view of this, his services were terminated by the impugned order. The representation submitted by him was considered and rejected by the Commissioner of Police on 17.3.1989.

4. The applicant is at the threshold of his career. He has been duly selected for appointment as Constable and was undergoing training at the time of the passing of the impugned order of termination. No show-cause notice was issued to him before terminating his services. In the context of verification of character and antecedents, the following observations made by Chinnappa Reddy, J. in State of M.P. Vs. Ramashanker Raghuvanshi, AIR 1983 SC 374, is worth pondering over:-


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

5. In T.S. Vasudevan Nair Vs. Director of Vikram Sarabhai Space Centre, 1988(1) KLT 582, the Supreme Court considered the question whether the services of

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an employee could be terminated on the sole ground that he did not disclose that, during Emergency he had been convicted under the Defence of India Rules for having shouted slogans on one occasion. The Supreme Court set aside the Judgement of the Kerala High Court and also the order dated August 1, 1987 cancelling the offer of appointment and directed the respondents to issue the order of appointment to the appellant. (See also N.V. Prasannan Vs. Union of India & Others, 1990 (1) SLJ, CAT 670; Girish Bhardwaj Vs. Union of India & Others, 1990(13) A.T.C. 178; and Satbir Singh Vs. Union of India & Others, A.T.R. 1988 (1) C.A.T. 464).

6. In the conspectus of the facts and circumstances of the case and also taking into account the fact that the applicant has been honourably acquitted by the Criminal Court vide judgement of the Addl. Chief Judicial Magistrate, Bharatpur, Rajasthan, dated 15.12.1988, we are of the opinion that the applicant should be given a chance to prove his worth by reinstating him as Constable. We, therefore, set aside and quash the impugned order dated 16.11.1988. The respondents are directed to reinstate him in service with all consequential benefits. We, however, make it clear that the respondents will be at liberty to take appropriate action against the applicant for any misconduct, in accordance with law, if so advised. The parties will bear their own costs.


(D.K. Chakravorty)
Administrative Member


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