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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 316/1990

Date of decision: 07.08.1992.

Shri Bhim Singh

Applicant

Vs.

Delhi Administration & Another

Respondents

For the Applicant

Shri Shankar Raju,
Counsel

For the Respondents

Mrs. Avnish Ahlawat,
Counsel

CORAM:

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

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed
to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *Yes*

JUDGMENT

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

for consideration is *a*

The question/whether the services of a Constable

could be terminated under Rule 5 of the CCS(CCA) Rules,
1965, on the ground that he did not mention in the
attestation form furnished by him before his appointment
that he had been involved in a criminal case in 1985 which
ended in his discharge on the basis of a compromise between
the parties in the same year.

2. We have gone through the records of the case
carefully and have considered the rival contentions. The
learned counsel of both parties have relied upon the case

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law in support of their respective contentions and we have duly considered them*.

3. The applicant joined as Constable in Delhi Police on 25.3.1988 and completed his training on 26.11.1988. On 10.11.1988, the respondents issued the impugned notice under Rule 5(1) of the CCS(CCA) Rules, 1965 to the effect that his services shall stand terminated from the date of expiry of a period of one month from the date on which the notice was served on him. The applicant has alleged that it was by way of punishment and that it amounts to casting a stigma on him.

4. The respondents have contended that the applicant was allowed to join Delhi Police subject to pending verification of his character and antecedents. On the receipt of his character verification report, he was found involved in FIR No.72/1985 dated 23.3.1985 under Section 324 I.P.C P.S. Joginder Nagar, Mandi (U.P) which ended in compromise between the two parties. He concealed this fact in his attestation form deliberately. The attestation form contains a clause to the effect that if any information is found to be incorrect, the services are liable to be terminated.

* Case law relied upon by the learned counsel for the applicant:-

Krishan Kumar Vs. Union of India, 1992(1) ATJ 283; Judgment of the Tribunal dated 2.7.1991 in OA 312/89, Parshotham Singh Vs. Delhi Administration & Others.

Case law relied upon by the learned counsel for the respondents:-

Judgments of the Tribunal dated 22.1.87 in OA 836/86, Kamod Singh Vs. U.O.I. & Others and dated 25.2.92 in TA 983/85, Brijesh Kumar Vs. Lt. Governor, Delhi and Others.

5. Thus, the non-mention of the applicant's involvement in the criminal case constituted the very foundation of the impugned order of termination.

6. The applicant has stated in his representation dated 10.1.1989 addressed to the Commissioner of Police that a case under Section 324 of IPC had been registered against him on 20.3.1985 which ended in a compromise between his father and the elder brother of his father on 19.4.1985 which was within one month's period and that this fact came to his knowledge only when he was told about the police report and he enquired about the same from his father after visiting his village. At the time of the incident, he was only 17 years of age and he was a student of 10th class. His parents did not disclose about the case to him at that point of time so that his studies would not be adversely affected due to its psychological impact. He has also enumerated the names of several persons with the same background in the Delhi Police whose services had not been terminated for such lapses.

7. Whether or not the termination of services under Rule 5 of the CCS(CCA) Rules, 1965 is legally sustainable would depend upon the facts and circumstances of each case and the judicial pronouncements cannot be blindly applied. The decisions relied upon by the respondents do not consider the question whether the alleged offence involves moral turpitude and as such they are distinguishable. In this context, the following observations made by Chinnappa Reddy.J.,

374 are pertinent:-

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

8. In the instant case, the offence involved does not, in our opinion, involve moral turpitude. The applicant was not arrested nor was any trial held in the criminal court. In the facts and circumstances, invoking the power under Rule 5 of the CCS(CCA) Rules, 1965, would be unfair and unjust.

9. In the light of the above, we partly allow the application and dispose it of with the following orders and directions:-

(1) We set aside and quash the impugned order of termination of services of the applicant dated 10.11.1988. The respondents are directed to reinstate him as Constable preferably within a period of three months from the date of receipt of this order.

(2) In the facts and circumstances, we do not direct payment of back wages to him.

(3) The respondents may, if they so choose, issue a letter ^{to the applicant} of warning in regard to the lapse on his part and asking him to be more careful in the future. An entry in this

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regard may also be entered in his service records.

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

B.N. DHOUDIYAL
(B.N. DHOUDIYAL)
MEMBER (A)
07.08.1992

Direct
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(P.K. KARTHA)
VICE CHAIRMAN(J)
07.08.1992

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