

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2793/91
T.A. No.

199

(5)

DATE OF DECISION 17.1.1992.

Miss Kanwaljit Kaur

xPetitioner Applicant

Shri A. S. Grewal

Advocate for the Petitioner(s) Applicant

Versus

Commissioner of Police, Delhi

Respondent

& Another

Shri Dinesh Kumar

Advocate for the Respondent(s)

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

The Hon'ble Mr. B. N. Dheuندiyal, 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 question for consideration is whether the non-appointment of the applicant as a Woman Constable in the Delhi Police on the ground that her father is under preventive detention under the Terrorist & Disruptive Activities(Prevention)Act and her brother is involved in a bomb blast case and is absconding, is legally tenable.

2. There are no decided cases on the subject and the case is a unique one. The fact of selection of the applicant and the completion of other formalities for her recruitment, such as medical examination, and physical measurement and

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Endurance Test, is not in dispute. The applicant has, however, been informed by letter dated 27.5.1991 that consequent upon verifications, her appointment in the Delhi Police has not been considered proper. Hence, her candidature was cancelled. The application has been filed challenging the aforesaid decision of the respondents.

3. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The learned counsel for the applicant submitted that the mere fact that the applicant's father and brother are involved in criminal cases, should not stand in the way of the appointment of the applicant as Constable. The respondents have no material in their possession to indicate that she would pass on the secrets of the department to her father and brother. Denial of appointment on some suspicion or apprehension, is not justified.

4. As against the above, the learned counsel for the respondents stated that in a disciplined force like the Police force, there should be a greater degree of care at the time of appointment of persons. The respondents are aware that the father and the brother of the applicant who are already in the service of the Delhi Police, are involved in criminal cases and terrorist activities. He argued that the applicant is expected to know the whereabouts of her brother, who is absconding, but she has not

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disclosed the same to the respondents.

5. The applicant is at the threshold of her career. In case she is denied appointment now on the grounds alleged by the respondents, she will have no chance of getting into public service. The very same considerations will stand in her way of getting an appointment even in a less sensitive Government department. In the context of verification of character and antecedents, the following observation made by Chinnappa Reddy J. in State of M.P. Vs. Rama Shanker Raghuvanshi, A.I.R. 1983 S.C. 374, is pertinent; "Should all these youngmen be debarred from public employment? Is Government service such a heaven that only angels should seek entry into it?"

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

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7. In the case before us, the facts are somewhat different. The close relatives of the applicant like her father and brother, are alleged to be involved in terrorist activities. However, they have not been convicted of any specific offence punishable under law. The apprehension of the respondents that in case the applicant is appointed to the Delhi Police, she may get a chance to leak out their secrets, cannot be said to be unfounded. This does not necessarily mean that the applicant should be denied appointment in the Delhi Police in an assignment where there will be no scope of access to any of their secret operations. In our opinion, the respondents should consider whether there are any non-sensitive posts in their office or offices where the applicant could be accommodated without the slightest risk of their secrets being leaked out by the applicant. In case this is feasible, the applicant should be considered for appointment against one of those vacancies if she is willing to join the same. The respondents shall do so within a period of three months from the date of communication of this order. The application is disposed of on the above lines. There will be no order as to costs.

B.N.Dhundiyal
(B.N. Dhundiyal) 17/11/92
Administrative Member

17/11/92
(P.K. Kartha)
Vice-Chairman (Judl.)