

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(33)

C.P. No. 256/95 in
C.A./T.A. No. 2255/91 /19 Decided on: 10.12.96.

..... Shri Ishwar Singh APPLICANT(S)
(By Shri V.P. Sharma Advocate)

VERSUS

..... Shri Nikhil Kumar & another RESPONDENTS
(By Shri Arun Bhardwaj Advocate)

OD RAM

THE HON'BLE SHRI S.R.ADIGE, MEMBER(A).

THE HON'BLE ~~SHRI S.M.~~ / DR. A.VEDAVALLI, MEMBER(J).

1. To be referred to the Reporter or not? yes.
2. Whether to be circulated to other Benches of the Tribunal ? No.

(*S.R.ADIGE*
S.R.ADIGE
MEMBER(A).

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

C.P.No.256/95
in
O.A. No.2255/91

(34)

New Delhi, dated this the 10th day of December, 1996,

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Ishwar Singh,
S/o Shri Gadhu Ram,
R/o Vill. Mandhian Khurd,
P.O. Dewalwas,
Distt. Rewari (Haryana). ... APPLICANT

(By Advocate: Shri V.P.Sharma)

VERSUS

1. Shri Nikhil Kumar,
Commissioner of Police,
Delhi Police,
Police Headquarters, MSO Building,
New Delhi.
2. Shri Bawley
Dy. Commissioner of Police,
3BN. Delhi Police (DAP),
Kingsway Camp,
Delhi. ... RESPONDENTS

(By Advocate: Shri Arun Bhardwaj)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this C.P. bearing No.256/95 the petitioner Shri Ishwar Singh has alleged contumacious disobedience on the part of the Respondents of the Tribunal's judgment dated 9.5.95 in OA-2255/91 Ishwar Singh Vs. Delhi Admn. & Ors.

2. In that OA the applicant had complained of his non-appointment as a constable (Exe.) Delhi Police during the recruitment held in 1989-90 because the respondents did not recognise his "Prathma" certificate from Hindi Sahitya Sammelan, Allahabad, U.P. secured in 1985 as equivalent

to Matric/Higher School which was the minimum essential academic qualification for the post.

3. That O.A was heard in the presence of both parties and disposed of by judgment dated 9.5.95. During the course of hearing the applicant produced a marksheet of having passed matric exam. from Punjab Board in 1993 (Annexure P-4), and it is recorded in the judgment that counsel for Delhi Admn. stated that the respondents would have no objection in reconsidering the applicants on the basis of this 1993 Matric Certificate.

4. Accordingly by the impugned judgment, the O.A. was disposed of by the Tribunal without giving any decision on the merit of the matter, but with a direction to the respondents to reconsider the applicant's case if he filed the original certificate of having passed the school exam. from a recognised institution established by law in Punjab State together with the original marksheets and an accompanying certificate, after getting the marksheets and certificate verified by the Educational Adviser to Commissioner of Police, Delhi. While giving

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the above directions, the Tribunal specifically observed that it was fortified in its view by the Hon'ble Supreme Court's decision dated 1.9.92 in UOI Vs. Sunil Kumar Civil given in / Appeal No.3759/92 arising out of SLP No.5931/92.

5. Thereupon the respondents issued Memo dated 28.8.95 (Annexure P-2) stating that in the light of the Tribunal's judgment dated 9.5.95 the matter has been reconsidered by them in consultation with the L.A. to Commissioner of Police, Delhi and they have decided that the applicant is not entitled to appointment for the post of Constable (Executive) in Delhi Police as he was not qualifying the educational qualification which was required to be possessed by a candidate in the year 1989 (at the time of recruitment) which he obtained later in the year 1993.

6. This is also the stand taken by the respondents in their reply to the C.P.

7. We have heard Shri V.P.Sharma for the applicant and Shri Arun Bhardwaj for the respondents. We have also perused the materials on record and given the matter our careful consideration.

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8. Admittedly the applicant's candidature for the post of constable in the Delhi Police during the recruitment held in 1989-90 was rejected by the respondents because they did not recognise the "Parthma" certificate from Hindi Sahitya Sammelan, Allahabad, U.P. secured in 1985, and this fact was before the Tribunal when OA-2255/91 came up before it for hearing on 9.5.95. On that date, the fact that the applicant had obtained the matriculation examination in 1993 from the Punjab Board was also before the Tribunal as well the counsel for the Delhi Administration, who stated before the Tribunal that the respondents i.e. Delhi Admn. would have no objection in reconsidering the applicant's case for appointment on the basis of that certificate. It is in the light of that statement that the Tribunal had directed the Respondents to consider the applicant's case for appointment, by its oral judgment dated 9.5.95 which was dictated in the open court in the presence of the counsel for both sides. While doing so, the Tribunal had specifically noted that it was fortified in its view by the Hon'ble Supreme Court's decision dated 1.9.92 in UOI Vs. Sunil Kumari's case.

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9. While the respondents may not be guilty of deliberately, or contumaciously disobeying the Tribunal's judgment dated 9.5.95 they would not be justified in rejecting the applicant's case for appointment merely because he had not obtained the matric. certificate in 1989, and thus reverting to the position that they had taken at the time when the O.A. was filed, because if they do so, their counsel should not have stated before the Tribunal that the Respondents would have no objection in reconsidering the applicant's case for appointment on the basis of 1993 Matric. Certificate.

10. In this connection it must be stated that it is not the case of the respondents that the applicant's Matric. Certificate of 1993 is not genuine, or for any reason in doubt. The only reason why they have rejected the applicant's candidature is because he did not possess the education qualifications which he was required to have at the time of his selection in 1989, and obtained them only in the year 1993.

11. In Sunil Kumar's case (Supra) the CAT, Principal Bench had directed the UOI to treat the applicants Sunil Kumar & Anr. as in continuous service as Security Assistants holding them entitled to all the benefits of pay & allowances, etc. of the post. Those directions were challenged in the Hon'ble Supreme Court on the ground that the essential qualifications for security Assistants in the I.B. is Matric. and the respective certificates existing in favour of the applicants are described as Uchhatar Madhyamic Certificate Exam. from the Board of Adult Education & Trg., which certificate I.B. had refrained from recognising as equivalent to matric. with effect from 18.6.88

a date prior to the selection of the applicants. The Hon'ble Supreme Court noted that the said certificate had remained valid and recognizable in the dept. prior to 18.6.88 and even the selection of applicants was made on the basis of such certificate despite the existence of the policy dated 18.6.88 and appointment letters were issued to the applicants on that basis but they were not allowed to join when it was discovered that they held certificate no longer valid with effect from 18.6.88. Having regard to the fact and circumstances of that case the Hon'ble Supreme Court directed the Respondents to treat the applicants in continuous service as Security Assistants subject to a rider that they should obtain the matric. or higher qualification from a recognised institution within 18 months. It is true that the facts in Sunil Kumar's case are somewhat different from the present case before us but the ratio in that case was that the applicants had been given some time to obtain the necessary qualifications recognised by the dept.

12. Similarly in OA-1777 of 1991 Ram Kanwar vs. UOI the applicant who entered service as a sepoy in 6.6.69 was promoted to the post of Havaldar. He passed Prathma Pariksha Exam. of Hindi Sahitya Summelen, Allahabad in Dec. 81 and applied for the post of Junior Reception Officer for which matric. or equivalent with 12 years of service was prescribed as a necessary qualification.

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13. The applicant was selected to the post on the basis of that Prathma certificate and got extension thereafter for about four years, but later on he was sought to be reverted on the ground that the Prathma Pariksha certificate was not recognised as equivalent to matriculation. The applicant's prayer was partly allowed with a direction to the respondents not to revert him from his post during period of deputation and meanwhile give him an opportunity of passing the matric. exam. within a period two years.

14. Another case cited by the applicant is that of OA-1828/91 Vijender Kumar Vs. UOI decided on 13.11.92. In that O.A. the applicant was aggrieved by order dated 7.8.91 cancelling selection for the post of constable in Delhi Police on the ground that the certificate of Prathma from Hindi Sahitya Sammelan, Allahabad possessed by him was not equivalent to matriculation. Shri Vijender Kumar had applied for the post of constable in pursuance of the notification by the Delhi Police and after completing all the formalities and qualifying all the standard tests for selection, including the medical exam., he was placed at Sl. No.903 in the merit list of the selected candidates and was to join training course on 7.8.91, on that date he was told by the in charge of the Recruitment Cell that he had been debarred from training and his selection had been cancelled without stating any reason. Later he came to know that his

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candidature had been cancelled because the certificate of Prathma had not been treated as equivalent to S.S.L.C./Matric. by the dept. In that O.A. it was ordered that a reasonable opportunity should appropriately be given to the applicant for passing the matric. exam. within a period of two years and that he should be provisionally appointed as Constable, subject to his passing the matric. exam.

15. Keeping in view the facts and circumstances of this case and all that has been stated above, we dispose of this C.P. by directing the respondents to take into account the certificate issued to the applicant in 1993 for consideration for appointment against an available vacancy occurring in 1993, and pass a detailed and speaking order in accordance with law within three months from the date of receipt of a copy of this order. Notices to the alleged contemporaries are discharged.

A. V. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (3)

S. R. Adige
(S. R. ADIGE)
MEMBER (4)

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