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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1178/2004

New Delhi this the 17th day of May, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. A. Singh, Member (A)

Naresh Kumar Meena, Roll NO.423491
S/o Shri Chhote Lal Meena,
R/o Village - Meenapura, P.O. Bamboli,
Tehsil ramgarh, Distt. Alwar (Rajasthan)

PIN 301001

...Applicant.

(By advocate: Shri Sachin Chauhan)

VERSUS

1. Dy. Commissioner of Police,
2nd Bn, D.A.P.,
Delhi.
2. Commissioner of Police
Delhi
Police Headquarters, I.P. Estate,
M.S.O. Building,
New Delhi.

... Respondents.

O R D E R (ORAL)

Shri Justice V.S. Aggarwal:

The applicant, Naresh Kumar Meena, had been provisionally selected as a Constable (Executive) in Delhi Police during the recruitment held in the year 2002. It was subject to verification of his character and antecedents besides medical fitness. On receipt of his character and antecedents report, it revealed that the applicant was involved in a criminal case, i.e. FIR No.152/2002 punishable under Section 3 read with Section 6 of the Rajasthan Examination Act at Alwar and pertaining to the said offences, he was held guilty and had been admonished, and thereupon benefit of Section 3 of the Probation of Offenders Act was accorded to the applicant. Keeping in view the said order, the

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disciplinary authority felt that the applicant was not suitable for appointment as Constable (Executive). Resultantly the show cause notice was issued to the applicant.

2. On receipt of the reply, the appointing authority i.e. Deputy Commissioner of Police cancelled the candidature of the applicant. The operative portion of the order reads:

Accordingly, your case was examined and you were issued a Show Cause Notice vide this office Memo. No.7578/Recdt. Cell/II Bn.DAP, dated 7.7.2003, as to why your candidature for the post of Const.(Exe.) in Delhi Police should not be cancelled for the allegations mentioned above. In response to Show Cause Notice, you have submitted your reply on 21.7.2003 which has been considered along with relevant record available on file and the same has been found not convincing because of the reasons that you were charged U/S 3/6 of the Rajasthan Examination Act for copying in examination and released U/S 3 of the Probation of Offenders Act after admonition. As such, you have been found not suitable for the post of Const. (Exe.) in Delhi Police. Hence, your candidature for the post of Const.(Exe.) in Delhi Police is hereby cancelled.

3. By virtue of the present application, the applicant assails the said order.

4. Learned counsel for the applicant contends that the applicant has only been admonished and thereupon the benefit of Probation of Offenders Act has been accorded to him. Therefore, the stand taken by the respondents is wrong that it is an impediment in the case of the applicant for being employed in Delhi Police.

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5. Our attention has been drawn towards the decision rendered by the Supreme Court in the case of Pawan Kumar Vs. State of Haryana, 1996 Vol.4 SC 17. The Supreme Court held:-

"14. before concluding the judgement we hereby draw the attention of Parliament to stop in an perceive the large many cases which per law and public policy are tried summarily, involving thousands and thousands of people throughout the country appearing before summary courts and paying small amounts of fine, more often then not, as a measure of plea bargaining. Foremost among them being traffic, municipal and other petty offences under the Indian Penal Code, mostly committed by the young and/or the inexperienced. The cruel result of a conviction of that kind and a fine of payment of a paltry sum on plea bargaining is the end of the career, future or present, as the case may be, of that young and/or inexperienced person, putting a blast to his life and his dreams. Life is too precious to be staked over a petty incident like this. Immediate remedial measures are, therefore, necessary in raising the toleration limits with regard to petty offences especially when tried summarily. Provision need be made that punishment of fine up to a certain limit, say up to Rs.2000/- or so, on a summary/ordinary conviction shall not be treated as conviction at all for any purpose and all the more for entry into and retention in government service. This can brook no delay, whatsoever."

6. Perusal of the findings recorded by the apex court clearly show that it pertained to matters relating to petty offences. The cited decision is patently distinguishable. This is for the reason that applicant, as is apparent from the copy of the judgement of the learned Chief Judicial Magistrate, Alwar, was held guilty of the offence punishable under Section 3 read with Section 6 of the Rajasthan

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Examination Act. He was caught copying in the examination. The learned court held him guilty of the said offence. It cannot, therefore, be taken that it was a petty offence or the applicant can contend that, therefore, the decision in the case of Pawan Kumar (supra) should be applicable. In fact, the applicant had contested the matter before the Court and was held guilty.

7. In that event, the learned counsel for the applicant had drawn our attention towards decision of this Tribunal in the case of Kuldeep Singh v. Union of India and Others (OA 1548/2000) decided on 7.3.2001. Perusal of the cited decision shows that in the case in question, this Tribunal had observed that on the facts, the decision rendered by the Supreme Court in the case of Delhi Administration through its Chief Secretary and Others v. Sushil Kumar (Civil Appeal No.13231 of 1996) decided on 4.10.96, is not applicable.

8. Needless to emphasis that in the case of Sushil Kumar (supra), the Supreme Court had concluded that it is for the appointing authority to consider whether a person is suitable for a particular post or not. It held:

"It is seen that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was found physically fit, passed the written test

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and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences. The consideration relevant to the case is of the antecedents of the candidate. Appointing authority, therefore, has rightly focussed this aspect and found it not desirable to appoint him to the service."

(emphasis added)

9. Once the applicant had been held guilty of an offence and released giving him the benefit of doubt under Section 3 of the Probation of Offenders Act, he cannot claim a right to be posted keeping in view his antecedents. If the authorities felt that he is not a proper person to be so appointed, there is little scope for interference.

10. Taking stock of these facts, we find that there is no ground to interfere. Application must fail and is dismissed in limine.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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