

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 282 OF 2004

New Delhi, this the 5th day of February, 2004

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.A. SINGH, MEMBER (A).

Shri Imrat Lal Meena (Roll No. 402913)
S/o Shri Narayan Lal Meena,
Village Boreta, P.O. Dhamred,
Tehsil Rajgarh,
Distt. Alwar (Rajasthan)

.... Applicant

(By Advocate: Shri S.N. Anand)

Versus

1. Commissioner of Police
Police Headquarters
IP Estate, New Delhi-2

2. Deputy Commissioner of Police
IIInd BN. DAP
Delhi-110 009

.... Respondents

ORDER (ORAL)

JUSTICE V.S. AGGARWAL

The applicant Imrat Lal Meena seeks quashing of the order of 3.11.2003 and to direct the respondents to appoint him as a Constable (Executive).

2. Some of the relevant facts are that the applicant is a Scheduled Tribe candidate. In pursuance to the vacancy notification issued by Delhi Police, he was selected as a Constable (Executive) in the recruitment year 2002. The applicant had been directed to report to the Recruitment Cell. He had complied with the directions and furnished his character certificate.

3. The applicant was served with a show cause

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notice dated 5.9.2003 requiring him to explain as to why he had concealed his involvement in a criminal case and why his candidature should not be cancelled. The applicant had submitted the reply.

4. According to the applicant, though First Information Report (FIR) was registered against several persons including him, still it was only a family dispute. It had been settled before his selection.

5. Vide the impugned order, the candidature of the applicant had been cancelled. The said order reads:

"You, Sh. Imrat Lal Meena S/O sh. Narayan Lal Meena were provisionally selected as Const. (Exe.) in Delhi Police during the recruitment held in the year 2002 against Roll No. 402913, subject to verification of your character and antecedents etc. On receipt of your character and antecedents report from the authority concerned, it revealed that a Crl. Case FIR No. 117/2001, dated 9.9.2001 U/S 323/341/397/307 IPC, PS Tehla (Raj.) was registered against you which was decided on 6.10.2001 by the Hon'ble Court as both the parties had compromised. But you did not disclose these facts of your involvement in the above-said Crl. case in the relevant columns of Application Form as well as Attestation Form filled up by you on different dates despite clear instructions given in these forms. In the Attestation Form it has been given at the top of the form that giving any kind of false information or concealing any facts by the candidate will be treated as disqualification. You have concealed the facts of your involvement in the above mentioned case deliberately and tried to seek appointment in Delhi Police by adopting deceitful means which amounts to grave misconduct on your part. The concealment of facts at initial stage clearly reflects your malafide intention.

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2. Accordingly your case was examined and you were issued a Show Cause Notice vide this office Memo No.8473/Rectt.Cell/II Bn. DAP, dated 5.9.2003 as to why your candidature for the post of Const. (Exe.) in Delhi Police should not be cancelled on the allegations mentioned above. In response to Show Cause Notice, you have submitted your reply on 24.9.2003 which was considered alongwith record available on file and the same has been found not convincing because of the reasons that you have concealed the facts of your involvement in the above mentioned Crl. case deliberately and tried to seek appointment in Delhi Police by adopting deceitful means which amounts to grave misconduct on your part.

3. Since, you have concealed the facts of the Crl. Case in the Application Form and Attestation Form and tried to seek appointment in Delhi Police by adopting deceitful means, you have been found not suitable for the post of Const. (Exe.) in Delhi Police. As such, your candidature for the post of Const. (Exe.) in Delhi Police is hereby cancelled."

By virtue of the present application, the applicant seeks quashing of the said order.

6. The facts clearly show that admittedly an F.I.R. had been registered against the applicant before he applied for the job and it is not in dispute that this fact had not been mentioned in the application form. The position in this regard is well settled.

7. We take liberty in referring to a Division Bench decision of the Delhi High Court in the case of **Virender Pal Singh v. Union of India**, 2002 (3) ATJ 561. Therein also the concerned person had applied for the post of a Constable and it was found that he had failed to disclose the material facts. His

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appointment was cancelled. The Delhi High Court held that the appointment was rightly cancelled. The findings read:-

"9. A person who is to be appointed as Constable, in our opinion, should disclose all material facts. It was for the appointing authority to consider as to whether the details provided by the candidate are true or false. Concealment of material facts for the purpose of obtaining appointment itself may be a ground for cancellation of the appointment. In the Application Form itself the petitioner was required to give a declaration to the effect that endorsement therein is true to the best of his knowledge and belief and in the event of any information found wrong, he can be dismissed from service. He thus knew that any wrong information or concealment of fact may entail his dismissal from service. It is, therefore, not a case where the court is called upon to pose a question as to whether despite conviction in a trickling matter, a person should be denied appointment or not. In Shishpal (supra) the decision was rendered in the peculiar facts of the case. It was stated in that case that the concerned employee was provisionally selected subject to police verification. The police found his involvement in two case which facts he did not disclose in his application. The Tribunal found that he had served for long 5 years and there had been no adverse report against the conduct of the applicant."

8. This Tribunal in the case of **Shri Hasmuddin v. Govt. of NCT of Delhi and others** in OA No. 7/2002 decided on 8.11.2002 had also considered the same controversy and concluded:-

" 11. With this backdrop, one can revert back to the facts of the present case. As already pointed above, the applicant was aware of the pending First Information Report in which he was acquitted but he informed the department that he was never involved in such matter. On verification in October, 2000, it

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transpired that the information given was not correct. The learned counsel for the respondents was right in pointing that on coming to know that it has come to the notice of the authorities, the applicant immediately in January 2001, wrote to the authorities that he had been involved in such a case in which he was acquitted. The fact remained that the applicant had suppressed the material fact. It also cannot be denied that he was not aware of it. It cannot be termed to be an inadvertent mistake. Once there was a conscious omission for which the authority would be well within its rights to conclude that the applicant's candidature should be withdrawn. We find nothing illegal in this regard to interfere."

More recently, the Supreme Court in the case of **Kendriya Vidyalaya Sangathan & Ors. v. Ram Ratan Yadav** JT 2003 (2) SC 256 was dealing with the same question. The Supreme Court held:-

"8. The object of requiring information in columns 12 and 13 of the attestation form and certification thereafter by the candidate was to ascertain and verify the character and antecedents to judge his suitability to continue in service. A candidate having suppressed material information and/or giving false information cannot claim right to continue in service. The employer having regard to the nature of the employment and all other aspects had discretion to terminate his services, which is made expressly clear in para 9 of the offer of appointment. The purpose of seeking information as per columns 12 and 13 was not to find out either the nature or gravity of the offence or the result of a criminal case ultimately. The information in the said columns was sought with a view to judge the character and antecedents of the respondent to continue in service or not."

Thereupon after setting aside the decision of the High Court, it was held that the order requires no

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interference. In other words, the consistent view is that a person who suppressed the facts cannot insist upon the discretion to be exercised in his favour. The Supreme Court in the case of Delhi Administration through its Chief Secretary and Others v. Sushil Kumar, (1996) 11 SCC 605 held that verification of the character and antecedents is a necessary ingredient. It is for the appropriate authority to consider whether the candidature has to be cancelled or not. The Supreme Court concluded:-

"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 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."

It clearly shows that if the authorities feel as in the present case that the suppression of material fact

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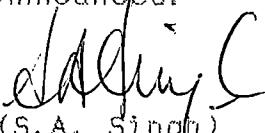
of involvement in a criminal case against the applicant would disentitle him to be appointed in Delhi Police, there would be no ground to interfere.

9. Once it is not disputed that the applicant had suppressed the fact and the authorities feel that he is not a proper person in this backdrop to be taken in Delhi Police and not desirable to do so, we find that there is no ground for this Tribunal to interfere.

10. No other argument has been raised.

11. For these reasons, the O.A. being without merit must fail and is dismissed *in limine*.

Announced.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman.

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