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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No.1965 of 1992 decided on 24.7.1998.

Name of Applicant : Sukhpal Singh

By Advocate : Shri E.M.S.Natchiappan

Versus

Name of respondent/s : Delhi Admn. through Secretary
and anr.

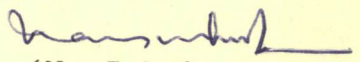
By Advocate : Shri Girish Kathpalia

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)

Hon'ble Dr. A.Vedavalli, Member(J)

1. To be referred to the reporter - Yes/~~No~~
2. Whether to be circulated to the other Benches of the Tribunal. -~~Yes~~/No


(N. Sahu)
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1965 of 1992

New Delhi, this the 24th day of July, 1998

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Hon'ble Mr. N. Sahu, Member (Admnv)
Hon'ble Dr. A. Vedavalli, Member (J)

Sukhpal Singh, s/o Shri Malka Singh,
r/o village Khekada, P.O. Khekada,
P.S. Khekada, Dist. Meerut, U.P.

-APPLICANT

(By Advocate Shri E.M.S. Natchiappan)

Versus

1. Delhi Administration through its
Secretary, Old Secretariat,
Rajpur Road, Delhi.
2. Commissioner of Police, Police
Head Quarters, IP Estate. New
Delhi-2

-RESPONDENTS

(By Advocate Shri Girish Kathpalia)

ORDER

By Mr. N. Sahu, Member (Admnv) -

In this Original Application the applicant impugns an order dated 21.10.1987 (Annexure-I) by which the applicant's candidature for the post of Constable in Delhi Police was cancelled on the ground that he was registered with the Employment Exchange Saharanpur, U.P. on 11.5.1987 whereas as per rules under the advertisement only those candidates were eligible for consideration who were registered on or before 11.4.1987. This condition was clearly conveyed to the Employment Officer, Saharanpur.

2. The applicant contends that his candidature was cancelled without giving him an opportunity of being heard. It is all the more iniquitous because he fulfilled necessary qualifications under the

Saranpur

rules. Registration with Employment Exchange was not one of the qualifications for becoming a member of Delhi Police under the rules. He also states that persons similarly situated as the applicant have been duly selected and appointed as Constable in Delhi Police. He cites a decision of this Court in O.A.No.2113 of 1988 decided on 26.4.1991 in the case of Vinod Kumar Vs. Delhi Administration & others, in support of his claim. In Vinod Kumar's case the SLP also was dismissed. He cites an order of Senior Additional Commissioner of Police, AP&T, Delhi to DCP/IV Bn. dated 10.11.1994. That was a case of a departmental enquiry initiated against a constable, for production of false employment card, under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980. For the reasons mentioned in the order it was held that registration with the Employment Exchange is only a statistical input to draw from a centralized source eligible persons but mere registration does not render a candidate eligible for a job. He cited the decision of the Hon'ble Supreme Court in the case of Director General of Police & others Vs. Mrityunjay Sarkar and others, (1996) 8 SCC 280 which was a case of a Constable in State Armed Police recruited on the basis of a list furnished by the Employment Exchange and discharged without enquiry on the ground that the said list was fake. The Hon'ble Supreme Court held that such a charge was stigmatic and the order of discharge was passed without reasonable opportunity of representation in departmental enquiry. Finally, the applicant cited a decision of this Court in the case

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of Suresh Kumar Vs. Delhi Administration, O.A. No.1851 of 1992 decided on 8.10.1997 wherein this Court had directed the applicant to file a self contained representation to the respondent under similar circumstances and directed the respondent to consider the said representation.

3. We have carefully considered the elaborate submissions of the learned counsel for the parties.

4. The cause of action in this case had arisen on 21.10.1987 when the impugned order was passed. The applicant claims to have filed a representation dated 20.11.1987 to the Commissioner of Police. Subsequently, he filed a second representation dated 20.6.1991 to the said authority. He claims that these representations were not answered. In his petition for condonation of delay dated 6.7.1992 he refers to decision in the case of Vinod Kumar (supra) and having come to know about the said fact in April, 1991 he filed the present O.A. He also referred to similar matters pending in the Tribunal and prayed for condonation of delay. This prayer cannot be accepted because the cases relied upon deal with termination of service. The applicant's case was not of termination of service but of declaring him ineligible for appointment at the threshold. Secondly, if Vinod Kumar's case (supra) was decided in April, 1991 no justification was given for not filing the O.A. till 29.6.1992. In the rejoinder to the counter affidavit he stated that he was a fresh recruit from a village in Uttar Pradesh and he went

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back to his village when his candidature was cancelled. We are of the view that this explanation for delay is not acceptable. There is a delay of roughly five years in filing this O.A. The respondents have categorically denied that any representation was at all filed. It was true that in a mass recruitment held at Saharanpur on 11.5.1987 the applicant fulfilled the conditions of physical qualification but he did not fulfil the qualification for entry, namely, registration in the Employment Exchange one month before the due date. It was another matter if the applicant had contested at that time that this condition was unreasonable in view of the subsequent Apex Court's decision that registration is a facility for drawing in eligible candidates for selection, there should be greater publicity in press and other means of advertisement to draw more candidates and registration in Employment Exchange narrows the scope of selection but then the applicant should have questioned the decision to debar him on this ground at that time. He cannot five years later impugn the selection process as it is. We have already held that the delay is unexplained and the O.A. is liable to be dismissed on the ground of limitation. The reliance on orders cited above by the applicant's counsel is misplaced in this case.

5. We also hold that there is no merit in this O.A. because the applicant gets a right to be considered as a member of the Delhi Police only when he receives a certificate of appointment under

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Section 13 of the Delhi Police Act, 1978. The applicant has not received any such certificate of appointment. He claims to have signed an agreement but this was denied. It was only a format which was supplied to him and was returned back to the respondents. This does not amount to an order of appointment. Since he is not appointed, he is not eligible for the protection under Article 311 of the Constitution nor he is eligible for the procedure to be followed under the Delhi Police (Punishment & Appeal) Rules, 1980.

6. In the result, the O.A. is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

N. Sahu

(N. Sahu)
Member (Admnv)

rkv.