

Central Administrative Tribunal
Principal Bench: New Delhi
....

OA No. 790/92

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New Delhi, this the 19th day of July, 1999

Hon'ble Shri S.R. Adiga, Vice-Chairman (A)
Hon'ble Shri P.C. Kannan, Member (J)

Jai Charan Verma s/o Sh. Hukam Singh,
resident of village Dallupura, Delhi- 91

....Applicant

(By advocate: Mrs. Meera Chhibber)

Versus

1. Delhi Administration, service to be effected through: Chief Secretary, Delhi Administration, 5, Sham Nath Marg, Delhi
 2. Commissioner of Police, M.S.O. Building, Police Headquarters, I.T.O. Complex, New Delhi
 3. Addl. Commissioner of Police (Admn.), Police Headquarters, M.S.O. Building, I.T.O., New Delhi
-Respondents

(By Advocate: None) Sh. Jarnail Singh, Deptt. representative)

ORDER (Oral)

By Hon'ble Shri S.R. Adiga, Vice-Chairman (A):

Applicant seeks a direction to open the sealed cover in respect of his admission to promotion list-F (Executive) which has been deferred vide order dated 13.3.1985 (Annexure-A) together with consequential reliefs.

2. Mrs. Meera Chhibber, appears for the applicant and has been heard. None appears on behalf of the respondents even on the second call except Sh. Jarnail Singh, S.I., as departmental representative. Since this is a 1992 matter and was listed at serial no. 12 of the regular list, we are disposing of after hearing Mrs. Meera Chhibber and perusing the materials on record.

3. Mrs. Meera Chhibber has invited our attention to the

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Tribunal's order dated 15.10.1992 in the aforesaid OA, wherein it had been noticed that the sealed cover procedure had been ^{resorted to} ~~admitted~~ by the D.P.C. as regards applicant's case. After hearing both parties on merits, the O.A. was allowed and respondents were directed to open the sealed cover in so far as it pertained to applicant and to take further action in accordance with law, and in the light of the D.P.C.'s recommendations.

4. Thereupon Respondents filed RA 22/93 in which it was contended that the applicant had played a fraud on the Tribunal by averring in his affidavit that he was not the Jai Chand s/o Chander who was involved in FIR 398/90 under Section 308/34 IPC.

5. That R.A. was heard by the Tribunal and disposed of by order dated 8.10.1993. The order shows applicant's counsel to be one Shri J.C. Mongia and on behalf of the respondents Ms Sumedha Sharma appeared as proxy for Mrs. Avnish Ahlawat. Mrs. Meera Chhibber, however, states that Shri J.C. Mongia was infact not the applicant's counsel, and he had only appeared as a witness to clarify that applicant was not the Jai Chand s/o Chander who was ^{involved} ~~involved~~ in FIR 398/90 under Section 308/34 IPC. In this connection Mrs. Meera Chhibber also invites our attention to the affidavit dated 13.6.1994 filed along with MA 1757/94 stating that applicant was not the Jai Chand s/o Chander who was involved in FIR 398/90.

6. The aforesaid order dated 8-10-1993 reveals that the respondents had hotly contested the veracity of the affidavit dated 25.9.1992 filed by the applicant in OA 790/92, in which he had stated that there was no departmental proceedings or criminal case pending against him.

7. In view of the rival contention the Tribunal by its order dated 8.10.1993 in RA No. 22/93 recalled its order dated 15.10.92 by which respondents had been directed to open the sealed cover

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and the O.A. was ordered to be kept pending till the decision of the criminal court in FIR 398/90 was delivered and received.

8. During hearing, Mrs. Meera Chhibber has strenuously contended that the aforesaid Jai Chand s/o Chander who is a named accused in FIR 398/90, is a person entirely different from the present applicant, who is Jai Charan Verma s/o Sh. Hukam Singh.

9. We have considered the matter carefully.

10. Nothing has been shown to us to establish that the criminal case arising out of FIR No. 398/90 has since been disposed of, despite the passage of nearly 9 years, and it is not known how much more time it will take for the aforesaid criminal case to be finally decided. Meanwhile it is not in the interest of justice to keep the present O.A. pending indefinitely. Furthermore even the rule position does not require the O.A. to be kept pending.

11. Without considering it necessary to go into the question whether applicant Shri Jai Charan Verma is indeed the same Jai Chand s/o Sh. Chander who is a named accused in FIR No. 398/90, it is clear that this F.I.R. was instituted on 23.12.1990, i.e. nearly five years after the DFC met to consider applicant's

promotion some time before 13.3.1985. Under rules & instructions respondents are required to open the sealed cover, upon the conclusion of departmental proceedings/criminal cases which were pending against applicant on the date the D.P.C. met, and from the disciplinary authority's order dated 11.10.1991 (Annexure-B to the O.A.) it is clear that he dropped the disciplinary proceedings against applicant, after noting that applicant was acquitted in all the four criminal cases pending against him.

12. In the light of the above, it is clear that even if the applicant was the same Jai Chand who is a named accused in FIR No. 398/90, or was subsequently made an additional accused in that case vide order dated 25.2.1995, which, Mrs. Meera Chhibber informed us, has been stayed by the Delhi High Court, the same cannot operate as a bar to the opening of the sealed cover, in

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terms of the D.F.C.'s decision some time prior to 13.3.1985.

13. In the result the Tribunal's order dated 15.10.1992 is confirmed to the extent that respondents are directed to open the sealed cover in respect of the applicant's admission to Promotion List-F (Executive) within two months from the date of receipt of a copy of this order, and thereafter to proceed in accordance with law in the matter. If, as a result of the above directions, applicant is admitted to Promotion List-F (Executive) he will be entitled to such consequential benefits as are admissible to him in accordance with rules and instructions on the subject.

14. The O.A. is disposed of accordingly. No costs.

(P.C.KANNAN)
MEMBER (J)

(S.R.ADIGE)
VICE-CHAIRMAN (A)

/Naresh/