

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 906/93
T.A. No.

199

DATE OF DECISION 22.9.93.

Shri Khurshid Lal

Petitioner

Shri S. S. Tewari

Advocate for the Petitioner(s)

Versus

Lt. Governor, Delhi

Respondent

Shri Virender Mehta,

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. I. K. Rasgotra, Member (A)

The Hon'ble Mr. J. P. Sharma, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

JUDGEMENT

(By Hon'ble Mr. J. P. Sharma, Member)

The grievance of the applicant is that his candidature for the post of Constable in the Delhi Police was cancelled by an order dated 28.1.1993. This order is an information to the applicant that his candidature for the post of Constable in the Delhi Police has been cancelled.

2. The applicant has claimed for quashing the aforesaid order with a direction to the respondents to issue an offer

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of appointment to him for the post of Constable in the Delhi Police.

3. A notice was issued to the respondents and they contested the application opposing the grant of the reliefs prayed for. The applicant with Roll No. 27475, appeared in the recruitment of Police Constables held in the year 1991-92 in Delhi Police. He was provisionally selected. On verification of his antecedents and character from the local Police, it was informed by the S.S.P., Meerut (U.P.) that he is involved in a criminal case under Section 323/504/506 I.P.C. for an occurrence on 27.9.1991 on which an FIR was lodged on the next day at P.H. Baraut, District Meerut. According to the respondents, the applicant has concealed this information and has ^{violated} clearly the instructions in the Attestation Form. In view of this, he was not found suitable for the offer of appointment to the post of Constable and his candidature was cancelled by the impugned order.

4. We have heard the learned counsel for the parties at length and perused the record.

5. During the course of the hearing, we have also seen the departmental file. In the said file, the application form for the post of Constable, Delhi Police, shows that he submitted that form in July, 1991 and in col.11, he

mentioned that no criminal case was pending against him. This information is correct. However, after his provisional selection in the Attestation Form, the applicant mentioned that he is not involved in a criminal case and also that no such case is pending in a Court, nor has he been convicted of any offence. This attestation form was filled on 15.10.1992 by him. As such, he deliberately furnished false information knowing well that he incurred the risk of disqualification by submitting wrong statement on verification.

6. The learned counsel for the applicant referred to a judgement of the Principal Bench in OA-880/87 decided on 2.5.1989 by the Principal Bench - Ved Prakash Vs. Union of India & Ors. The petitioner of that case was a Peon in the Ministry of Human Resource and Education and his services were terminated under Rule 5 of the CCS(Temporary Service) Rules, 1965 by the order dated 3.6.1987. The petitioner of that case was involved in a case, FIR No.60 dated 25.2.1985 under Section 377/34 I.P.C. lodged with the Police Station, Sadar, Gurgaon. The petitioner of that case withheld this information from being disclosed in the attestation form. The Bench held that there was nothing on record to indicate that the applicant had furnished false information wilfully. Since the petitioner of that case was finally

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acquitted, the Bench observed that a lenient view should have been taken, particularly in the case of the petitioner who is at the threshold of his career in Government service. The Tribunal has also placed reliance on the case of State of Madhya Pradesh Vs. Ram Shankar Raghuvanshi and Another reported in 1983 (2) SCC, 145. On the strength of the above, the learned counsel for the applicant argued that the applicant was not aware of the pendency of the criminal case and he referred to the judgement of the Addl. Judicial Magistrate, Meerut in the case State Vs. Khurshid & Others under Section 323/34, 504 and 506 I.P.C., P.S. Baraut (Case No.89/93). A contention of the learned counsel for the applicant is that it was only in 1993 as serial number of the case shows, that a criminal case was sent to the Court. The criminal case is registered on the basis of the charge-sheet submitted to the Court and when cognizance is taken by the Magistrate, the notices are issued to the accused. In view of this fact, the attestation form which was filled by the applicant on 16.10.1992, was filled up under the impression that even though the F.I.R. was there, yet it was not submitted as a challan to the Court. The contention of the learned counsel for the applicant, therefore, has got some force that the applicant did not wilfully conceal this fact. It may be due to his ignorance of the real state of facts.

A case under Section 323/34 I.P.C. is a non-cognizable one. Under certain circumstances, because there was also criminal intimidation alleged punishable under Section 506 I.P.C. that it was treated as a cognizable offence and investigated by the local Police Station.

7. The learned counsel for the applicant also contended that the applicant has been given a clean acquittal and a perusal of the aforesaid judgement shows that only the one witness was examined who gave the statement on oath that the applicant did not assail him, nor was any criminal intimidation given to the witness by the accused. In that case, along with the applicant, Khurshid, Jamshed, Shaukat and Abdullah, were also tried in the criminal court. This judgement was delivered on 17.2.1993. The impugned order has been passed on 28.1.1993 and that was not placed before the respondents by the applicant.

8. It is expected that the Police Force should be of persons who are above board in their personal life. However, some incidents may occur and if the final result of those incidents goes to show that the involvement in a particular affair which led to the commission of an offence was false, then such a person should ^{not} be made to suffer throughout his life. The

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applicant has qualified and secured a grade for his selection and he should not, therefore, be denied the right to serve. Nothing else has come out in his character verification which could go to show that he has not been bearing a good moral character.

9. In view of the above facts and circumstances, the application is allowed with a direction to the respondents to give him the offer of appointment when he was otherwise eligible according to the extant rules within a period of three months from the date of the receipt of a copy of this judgement. No costs.

J. P. Sharma
(J.P. Sharma)
Member (J) 22/9/93

I. K. Rasgotra
(I.K. Rasgotra)
Member (A) 22/9/1993