

Reserved.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH; ALLAHABAD.**

ORIGINAL APPLICATION NO.1579 of 1999.

ALLAHABAD THIS THE 27/8 DAY OF September 2005.

Hon'ble Mr. D.R. Tiwari, Member-A
Hon'ble Mr. K.B.S. Rajan, Member-J

VeerPal Singh, S/o Sri Rohan Singh, R/o Village
Chaubari, P.S. Cantt, District Bareilly.

.....Applicant.

(By Advocate: Sri Rakesh Verma)

Versus.

1. Union of India through the Secretary, Ministry Human Resources Development, Department of Education, New Delhi.
2. Deputy Director, Department of Education, Government of India, (Navodaya Vidyalaya Samiti), B-159, Nirala Nagar, Lucknow.
3. Principal, Jawahar Navodaya Vidyalaya, Bareilly.

.....Respondents.

(By Advocate: Sri V. Swaroop)

O R D E R

By K.B.S. RAJAN, Member-J

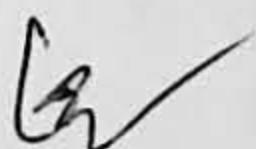
Some crucial dates relevant to the facts of the case are first referred to for proper appreciation of the case. They are as under:-

Date	Event
04-09-1997	Applicant furnished the attestation form which is a pre-requisite for appointment.
15-09-1997	The filled up attestation form was forwarded by the the authorities to the District Magistrate for verification of the character and antecedents by the Police and District Administration.
06-09-1997	Applicant Appointed as Driver and put on probation for a period of two years. .
22-06-1998	Appar Zila Magistrate informed the respondents that the

	applicant was involved in certain criminal case No. 419/96 and 371/91 IPC.
30-08-1998	Applicant directed to explain in regard to his criminal cases and the concealment of the information while submitting the Attestation form
29-05-1999	Applicant was again directed to explain in regard to the criminal case as contained in order dated 30-08-1998
02-11-1999	Applicant's services terminated invoking rule 5 of the CCS (T.S.) Rules.

2. Now the case of the applicant: The applicant who had been appointed as driver in the respondents organization in the scale of Rs 950 - 1500 vide order dated 01-09-1997 was later issued with a show cause notice as to his involvement in certain criminal cases and on having no satisfactory explanation in regard to his non furnishing of correct information in the attestation form, his services have been terminated invoking the provisions of CCS(Temporary Service) Services Rules. The applicant has challenged the order of termination.

3. Respondents have contented that as the applicant had not come up with the correct information relating to the involvement in the criminal case and as at least in one of the cases, his acquittal cannot be stated to be honourable acquittal, and in view of his non furnishing of correct information, his services have been terminated.

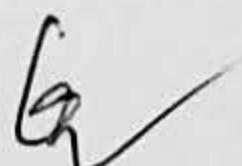


4. Hearing took place, and the parties were heard. The respondents were directed to produce the original attestation but the same was not produced.

5. The case is one of furnishing incorrect information or concealment of correct information. Though the exact format of the attestation form has not been filed or produced, taking clue from the format of Attestation form as available in respect of the Kendriya Vidyalaya, on the presumption that in all expectation, the same format would have been adopted in the case of N.V./S./ also, the case of the applicant has been analyzed.

6. Admittedly the attestation form was furnished by the applicant prior to appointment and the appointment order gives sufficient latitude to the respondents to terminate the services of the applicant by giving one month notice or salary in lieu thereof, vide para 5 of the offer of appointment dated 01-09-1997. The attestation form was submitted by the applicant wherein he had not furnished any information, as per the respondents, about the pendency of the criminal case against the applicant.

7. The Apex court in the case of *Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav*, (2003) 3 SCC 437 has held as under:



"7. Para 9 of the same memorandum is to the following effect:

"Suppression of any information will be considered a major offence for which the punishment may extend to dismissal from the service."

8. The attestation form dated 26-6-1998 duly filled in by the respondent and attestation show that the respondent has taken BA degree from St. Aloysius College, JBP and BEd and MEd degrees from R. Durgavati Vishwavidyalaya, JBP. Columns 12 and 13 as filled up read thus:

"12. Have you ever been prosecuted/kept under detention or bound down/fined, convicted by a court of law of any offence? — No.

13. Is any case pending against you in any court of law at the time of filling up this attestation form? — No."

9. The respondent has also certified the information given in the said attestation form as under:

"I certify that the foregoing information is correct and complete to the best of my knowledge and belief. I am not aware of any circumstances which might impair my fitness for employment under Government."

.....
 12. 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 the 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.*"

The above was followed in the case of A.P. Public Service Commission Vs. K. Venkateswaralu (CA no. 5335 of 2005 decided on 30.8.2005) reported in 2005 (7) SCALE 23.

8. In yet another case of *Secy., Deptt. of Home Secy., A.P. v. B.*

Chinnam Naidu, (2005) 2 SCC 746, the Apex Court has held as under:-

8. In order to appreciate the rival submissions it is necessary to take note of column 12 of the attestation form and column 3 of the declaration. The relevant portions are quoted below:

"*Column 12.—Have you ever been convicted by a court of law or detained under any State/Central preventive detention laws for any offence whether such conviction sustained in court of appeal or set aside by the appellate court if appealed against.*"

"*Column 3.—I am fully aware that furnishing of false information or suppression of any actual information in the attestation form would be a disqualification and is*

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likely to render me unfit for employment under the Government."

9. A bare perusal of the extracted portions shows that the candidate is required to indicate as to whether he has ever been convicted by a court of law or detained under any State/Central preventive detention laws for any offences whether such conviction is sustained or set aside by the appellate court, if appealed against. The candidate is not required to indicate as to whether he had been arrested in any case or as to whether any case was pending. Conviction by a court or detention under any State/Central preventive detention laws is different from arrest in any case or pendency of a case. By answering that the respondent had not been convicted or detained under preventive detention laws it cannot be said that he had suppressed any material fact or had furnished any false information or suppressed any information in the attestation form to incur disqualification. The State Government and the Tribunal appeared to have proceeded on the basis that the respondent ought to have indicated the fact of arrest or pendency of the case, though column 12 of the attestation form did not require such information being furnished. The learned counsel for the appellants submitted that such a requirement has to be read into an attestation form. We find no reason to accept such contention. There was no specific requirement to mention as to whether any case is pending or whether the applicant had been arrested. In view of the specific language so far as column 12 is concerned the respondent cannot be found guilty of any suppression.

9. The case of the applicant shall fall under either of the above category. As stated above, the case of KVS was taken in to account as both KVS and NVS function on the same pedestal and are autonomous bodies coming, however, under the administrative control of the Central Government in certain aspects.

10. The judgment of the Apex Court in the case of KVS thus, applies in the present case also. The action of the respondents in terminating the services of the applicant is perfectly in order. The O.A. is thus liable to be dismissed. However,

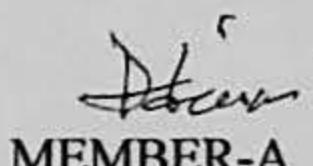
[Signature] this is subject to a rider that the attestation form

contains the identical columns as contained in the attestation form in respect of K.V.S. as spelt above. As the applicant has not retained a copy of the attestation form, an opportunity should be given to him to see the form that he had furnished under his signature and if the columns 12 and 13 are different from the above and if there be no column about pending criminal cases, the applicant would be at his liberty to move an application for review of this order.

11. With the above observation, the OA stands disposed of. No cost.



MEMBER-J



MEMBER-A

GIRISH/-