

(2)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD**

Original Application No. 883 of 2002

ALLAHABAD, THIS THE 30<sup>TH</sup> DAY OF NOVEMBER, 2006

**C O R A M :**

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER  
HON'BLE MR. M. JAYARAMAN, ADMINISTRATIVE MEMBER**

Manoj Kumar Shah,  
Son of Sri Narayan Shah,  
R/o. House No.1382,  
LIG Awas Vikas-3 Panki,  
Kalyanpur Road,  
District Kanpur Nagar,

... Applicant

By Advocate : Sri M.K. Upadhyay

Versus

1. Union of India,  
through Ministry of Defence,  
New Delhi.
2. General Manager,  
Ordnance Equipment Factory, Kanpur.
3. Upper Maha Nidesak,  
Ordnance Equipment Factory,  
Kanpur.

... Respondents

By Advocate : Sri S. Singh

**ORDER**  
**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER**

Admitted facts obviate debates. Even as per respondents, the applicant was selected for trade apprenticeship training in Tailor Trade in

69

(23)

2

38th Batch of the Ordnance Factory for a period of 18 months from 2nd Feb. 1998 to 21st August, 1999. For police verification of his character and antecedents, the attestation form, duly filled by the applicant was forwarded to the DM, Kanpur and DM office of his permanent residential address in Bihar State. The attestation form contained a warning that if any false information has been furnished or suppression of any factual information comes to the notice at any time during the service/training of a person, his services/training is liable to be terminated. As per the Attestation form filled and signed in by the applicant on 16-01-1998, against the column, "***Is any case pending against you in any Court of law at the time of filling up this Attestation Form?***" the entry made by the applicant was '**NO.**' However, as per DM's communication dated 25-05-1998, Criminal Case No. 271 of 1998 u/s 147/452/323/504/506/336/427 of the IPC was registered against the applicant and the applicant was also challenged by the Court u/s 107/116 Cr.P.C. Hence, the applicant was issued with a show cause dated 26-05-1998 to furnish his explanation. The applicant has submitted his explanation to the effect that the case itself was closed but without any documentary evidence. As there was a suppression (according to the respondents) of vital information, which was disqualification for continuing the training of the applicant, his training was terminated by respondent No. 2 w.e.f. 1998. It has further been the admitted fact that the Asst. Police Superintendent vide his letter dated 18-05-2000 confirmed the expunging of the criminal case No. 271/1998.



24

2. Now certain further details with relevant dates for ascertaining as to whether there had been any suppression of information or furnishing of incorrect information in the attestation form, which would have disqualified the applicant from continuing the training. Annexure A-6 is the notice dated 26-05-1998 from the respondents wherein it has been stated that on 13.04.1998 a case No. 271/98 was registered against the applicant in Kalyanpur Police Station. According to the applicant, the origin of this case was a complaint from one Shri M.K. Sharma, Advocate lodged on 13.04.1998, vide para 4.10 of the OA. (To this contention though there has been a denial, the respondents have not reflected in their counter as to the origin of the case or the date thereof). By the time the said case was registered, the applicant had already furnished the attestation form, duly filled up and had already started undergoing training w.e.f. 2-2-1998. Later on the said criminal case also was expunged, as admitted by the respondents.

3. Counsel for the applicant argued that the applicant, while furnishing the details in the attestation form had given the position as existed on the date of filling up of the form. The criminal case was registered much later than the filling up of the form. As such, there is no question of furnishing incorrect information or suppressing relevant information. Thus, when no suppression or incorrect information had been furnished in the attestation

69

form, termination of training abortively is illegal.

4. Counsel for the respondents submitted that there being a case at the time when the applicant was undergoing training, he had suppressed the information.

5. Arguments were heard and documents perused. Admittedly as on the date of filling up of the attestation form, or even when the applicant was permitted to undergo training, there had been no complaint, much less any criminal case pending. As such, on the ground that at a later date there has been a criminal case against the applicant and hence, the applicant had suppressed the information while filling up the attestation form and hence his training was terminated is thoroughly illogical.

6. In the case of **Secy., Deptt. of Home Secy., A.P. v. B. Chinnam Naidu, (2005) 2 SCC 746**, the Apex Court has expressed the purpose of filling up of attestation form and the scope of the same. It has been held therein as under:-

*"As is noted in Kendriya Vidyalaya Sangathan case<sup>1</sup> the object of requiring information in various columns like column 12 of the attestation form and declaration thereafter by the candidate is to ascertain and verify the character and antecedents to judge his suitability to enter into or continue in service. When a candidate suppresses material information and/or gives false information, he cannot claim any right for appointment or continuance in service. There can be no dispute to this position in law. But on the facts of the case it cannot be said that the respondent had made false*



declaration or had suppressed material information.

**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 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.

**10.** In Kendriya Vidyalaya Sangathan case<sup>1</sup> the position was the reverse. There the candidate took the stand that as there was no conviction, his negative answers to columns 12 and 13 were not wrong. This Court did not accept the stand that requirement was conviction and not prosecution in view of the information required under columns 12 and 13 as quoted above. The requirement was



*prosecution and not conviction. The logic has application here. The requirement in the present case is conviction and not prosecution.*

**11. The question whether he was a desirable person to be appointed in government service was not the subject-matter of adjudication** and the Tribunal was not justified in recording any finding in that regard. Whether a person is fit to be appointed or not is a matter within the special domain of the Government. For denying somebody appointment after he is selected, though he has no right to be appointed, has to be governed by some statutory provisions. That was not the issue which was to be adjudicated in the present case. **The only issue related to suppression of facts or misdeclaration.** (Emphasis supplied).

7. In the instant case also, the question was whether there was any suppression of material information. The answer is an emphatic "No", for, as on the date when the attestation form was filled up, there was no case pending (not even was there any complaint). As such, the respondents are in complete error in having terminated the applicant's training.

8. The OA therefore fully deserves to be allowed. The applicant is entitled to complete his full training and on his successful completion, he shall be deemed to have undergone the training along with his other batch mates of 38<sup>th</sup> Batch and he should rank at the bottom of the said batch but prior to subsequent batches. Whatever benefits his batch mates had been afforded, the same shall be made available to the applicant. Impugned orders dated 06-07-1998, 11-07-2000, 21-05-2001 and 22-02-2002 (AnnexureS A-1 to A-4) have all been quashed and set aside. The respondents shall comply with this order within a period of three months

69

28

6

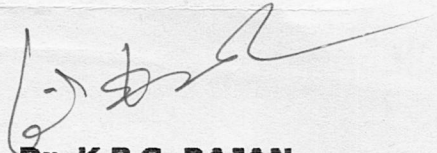
from the date of communication of this order.

9. Under these circumstances, there shall be no orders as to costs.

(Dated, the 30<sup>th</sup> November, 2006)



**M. JAYARAMAN**  
**ADMINISTRATIVE MEMBER**



**Dr. K B S RAJAN**  
**JUDICIAL MEMBER**