

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA 1270/97  
MA 17/98

10-8-2001

Present : Hon'ble Mr.D. Purkayastha, Member (J)  
Hon'ble Mr.V.K.Majotra, Member(A)

Nemai Pal  
-Vs-  
M/O Defence

For the applicant : Mr.T.Sarkar  
For the respondent : Mr.M.S.Banerjee

ORDER

Mr.V.K.Majotra, Member(A) :

The applicant was appointed as Semi-skilled in Fitter Trade by the respondent on a probation for a period of two years on a purely temporary basis in the scale of Rs800-15-1010-EB-20-1150/- vide Annexure A. He filled up attestation form for Police Verification that he had never been prosecuted or bound down and that no case was pending against him in any court of law at the time of filling the Attestation Form. In the Attestation Form there was a Warning that furnishing of false information or suppression of any factual information in the Attestation Form would be a disqualification and is likely to render the candidate unfit for employment under the Government. Despite the Warning, the applicant suppressed the fact in the Attestation Form that he was involved in a case bearing No.97(10)94 under Section 498A IPC under Barrackpore P.S. and that a charge sheet was issued against him. A show cause notice was issued against the applicant on discovery of pendency of a Criminal Case (Annexure R1). The applicant made representation on 20-10-97. The applicant having admitted pendency of a Criminal Case against him and also suppression of the fact <sup>regarding the</sup> ~~that the~~ pendency of criminal case against him, the respondent after considering the representation and relevant <sup>case the</sup> ~~records~~ pending against him terminated the applicant's service on 8-11-97. The learned counsel of the applicant submitted that in the Criminal Case pending against the applicant there was no specific allegation

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against him nor has he been convicted or fined in that case. He further stated that hurriedly and without proper verification by an efficient person he had filled up the Attestation Form by marking 'No' against the column concerning 'pendency of Criminal Cases etc. in Attestation Form. The learned counsel further submitted that the allegation against the applicant under 498A is not grave enough to invite termination of services of an employee. He relied on AIR 1999 Supreme Court 912 in Regional Manager, Bank of Boroda V Presiding Officer, CGIT containing <sup>-ending</sup> that even a charge under S.307, IPC was not having direct impact on appointment in a Bank.

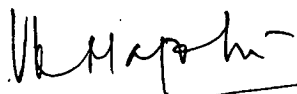
3. The learned counsel of the respondent reiterated the points made by the <sup>respondents</sup> ~~applicant~~ in the short reply.

4. In the case of Regional Manager, Bank of Boroda Supra we find that the conviction was rendered by the Sessions Court on 20-2-1979; the show cause notice for the first time was issued by the appellant after one year i.e. on 26-2-1980 and thereafter the termination order was passed on 18-4-1983. In view of <sup>Fact that</sup> the passage of time created a situation wherein the original suppression of involvement of the respondent in the prosecution for an offence under Section 307 of the IPC did not remain so pernicious a misconduct on his part as to visit him with the grave punishment of termination from service. Ultimately, the employee was acquitted in the Criminal Case as well. In the peculiar facts of the case, the Termination Order was set aside and in the interest of justice respondent <sup>was directed</sup> to be treated as fresh recruit.

5. In the present case, we find that the applicant has suppressed pendency of criminal case under Section 498A IPC

against him. The so called innocent statement that he had hurriedly without having it verified by an efficient person recorded the remarks 'No' against the columns in paragraph 12 of the Attestation Form and did not attach much importance to furnish the particulars in the aforesaid column cannot countenanced. It is not for the applicant to decide whether or not information about pendency of criminal case is important for the purpose of employment, it is for the employer to judge whether a person against whom a criminal offence is pending is fit for employment or not. In the case cited by the learned counsel of the applicant, the person concerned has been acquitted of the charges ultimately and the Hon'ble Supreme Court has observed that in the facts of that case, Offence under Sec.307 of IPC had become not so pernicious as to dis-entitle a person from employment.

3. In the facts and circumstances of the case and observations of the Hon'ble Supreme Court in the cited case and as stated by the learned counsel of the applicant, that case against applicant is still subjudiced, which has not been denied by the learned counsel of the respondent, we consider that ends of justice would be met in the present case by disposing of this OA by leaving it to the respondents' discretion to consider reinstatement of the applicant as a semi-skilled Fitter Trade as a fresh candidate. No cost. MA 17/98 also stands disposed of by this Order.

  
(V.K. Majotra)  
Member(A)

10.8.2001

  
(D. Purkayastha)  
Member(J)