

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 245/98

Date of Decision: 2.9.98

Shri Balu Ramdas Sangale Applicant.

Shri B. Dattamurthy Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri R.R. Shetty for
Shri R.K. Shetty. Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S.Baweja, Member (A)

- (1) To be referred to the Reporter or not? *No*
- (2) Whether it needs to be circulated to *No* other Benches of the Tribunal?

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY -1.

Original Application No. 245/98

Wednesday the 2nd day of September 1998.

CORAM: Hon'ble Shri Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member (A)

Balu Ramdas Sangale
Residing at : 65 Lam Road,
Kala Bungalow at & PO
Deolali Camp, District:Nasik

... Applicant.

By Advocate Shri B. Dattamurthy.

V/s.

Union of India through
The Commandant, Artillery
School, Deolali,
Nasik.

Union of India
represented by the Secretary
to the Govt. of India
Ministry of Defence
South Block, New Delhi.

... Respondents.

By Advocate Shri R.R. Shetty for Shri R.K. Shetty.

O R D E R (ORAL)

(Per Shri Justice R.G. Vaidyanatha, Vice Chairman)

In this application, the applicant is challenging the cancellation of his appointment order dated 26.11.96 by the respondents. The respondents have filed reply. We have heard both sides on merits.

2. The applicant was selected for the post of Groundsman. He was subject to medical examination. He has also filled up and duly signed the attestation form. It appears that the department has referred the matter to the Police for verification of antecedents. It appears that the department has received information of the applicant that the applicant was involved in two pending criminal cases. In view of this information, by the impugned order the applicant's appointment came to be cancelled. Being aggrieved by the order the applicant

has approached this Tribunal for challenging the order of cancellation of his appointment and for a direction to the respondents to appoint him.

3. The respondents have filed reply justifying the action taken ~~stating~~ which stated that the applicant was involved in two criminal cases. In view of this he was not found suitable for being appointed to the post in question. It is also stated that the applicant has suppressed the vital information in filling up the attestation form. On these two grounds the respondents were justified in cancelling the appointment order of the applicant.

4. The learned counsel for the applicant contended that pendency of the two criminal cases is no bar for appointment. He further states that in both the cases he has been acquitted subsequently. He has produced copies of the judgements of the criminal cases. On the other hand the learned counsel for the respondents contended that in view of the two pending criminal cases the applicant's antecedents were under question and therefore his appointment was cancelled. A person in the waiting list came to be appointed. He further submits that the applicant had suppressed the information in the attestation form. This itself is a ground for cancelling the appointment order.

5. The learned counsel for the applicant contended that pendency of criminal cases is no bar for appointment and has placed relevance of two decisions namely Girish Bhardwaj V/s. Union of India and others (1990) 13 ATC 178 and in the case of Sishpal V/s Union of India and others (1993) 25 ATC 311.

No doubt these two decisions support the argument of the learned counsel for the applicant. The learned counsel for the respondents submitted that the criminal cases were pending and further pointed out that subsequent acquittal of applicant in both the criminal cases is on the ground of benefit of doubt. Even on this ground the respondents are justified in cancelling the appointment order.

6. In our view, without expressing any final view in the matter, the cancellation of the appointment order of the applicant by the respondents is due to pendency of criminal cases. We find that the action taken on this ground is fully justified. The applicant has duly filled in the attestation form and signed the same, which has been produced by the respondents which is at page 73 of the paper book. In the prescribed form three warnings are given on the top of the form: "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". For question at serial No. 12(a) Have you ever been arrested, the answer was in negative. For question at serial No. 12(e) Have you ever been fined by a court of law, the answer was in negative. For question at serial No. 12(j) Whether any case is pending again the answer was in negative. We therefore, see that for the three questions about the cases, the applicant has given the answer in negative.

7. In view of the suppression of the vital information and warning, there is no illegality committed by the respondents in cancelling the appointment order of the applicant. Therefore we do not find any merit in

challenging the order of cancellation of the appointment order.

8. The learned counsel for the applicant submitted that at least in the case of future employment the applicant may be given relaxation of age since he is over age for appointment in Government service. The learned counsel for the respondents strongly opposed. We have recorded the submission of the learned counsel for the applicant and only observe that it is open to the applicant to make a request to the ~~department~~ for relaxation of age and the competent authority may decide the case on the facts and circumstances mentioned in the representation made by the applicant.

9. In the result the application is rejected at the admission stage itself. No costs.

D. Baweja
(D.S. Baweja)
Member (A)

R. G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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