

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH**

O.A.No.291/00751/2015

Orders pronounced on: 7.10.2016
(Orders reserved on : 04.10.2016)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. MEENAKSHI HOOJA, MEMBER (A)**

Vaseem Khan son of Shri Noor Mohammad, aged about 33 years, resident of House No. 322, Indra Nagar, Ratlam, Madhya Pradesh and presently under training after due selection for the post of Assistant Loco Pilot, North Western Railway, Ajmer Division, Ajmer.

Applicant

- Versus
1. Union of India
through General Manager,
North Western Zone,
North Western Railway (Head Quarter),
Near Jawahar Circle,
Jagatpura, Jaipur-302017.
 2. Chief Personnel Officer,
North Western Zone, North Western Railway (Head Quarter),
Near Jawahar Circle, Jagatpura, Jaipur-302017.
 3. Divisional Railway Manager (E),
North Western Railway,
Ajmer Division, Ajmer.
 4. Principal, Regional Railway Training Institute, Udaipur (Rajasthan).

Respondents

Present: Mr. C.B. Sharma, Advocate, for the applicant.
Mr. Anupam Aggarwal, Advocate, for Respondents.

ORDER
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this O.A., inter-alia, for issuance of direction to the respondents to give him appointment as Assistant Loco Pilot in pay Band of Rs.5200-20200 with grade pay of Rs.1900 with benefits after completion of training by quashing letters dated 26.11.2015 and 27.11.2015.
2. The facts leading to the filing of the case are that the applicant at the age of 23 years in 2005, was involved in a quarrel with one Shri Vikas and a case under sections 341, 324 and 506 was registered against him. A challan was filed in the Court which case was closed after compromise in 2005 itself as per entry made in Register dated 4.11.2015 (A-3).
3. The applicant submitted his application for the post of Assistant Loco Pilot as per Notification No. 01/2014 in Category No. 01 and after being successful, issued appointment order on 21.7.2015 to which he gave consent. He was medically examined and found fit for Aye-One category without glasses. He was also sent for preliminary training at Udaipur w.e.f. 7.9.2015 for 17 weeks. During training, he was asked vide letter dated 4.11.2015 that on Police Verification Report, it has been found that a case against him was registered in which he was acquitted by way of compromise on 15.6.2005 which fact he has failed to mention in the Character Verification Proforma and has concealed this material information and was asked to submit

a copy of the order. He explained that he was unnecessary involved in the case and was acquitted by way of compromise. However, his appointment was cancelled on 26.11.2015 on the ground of concealment of vital fact in the Police Verification proforma. He claims that he has crossed maximum age of 33 years and has now become ineligible for government appointment. He cannot be denied appointment on the basis of petty offence, as held by Apex Court in **Commissioner of Police & Others Vs. Sandeep Kumar**, (2011) 1 SCC (L&S) 734 and **Sukh Lal Jat Vs. UOI etc.** O.A.No. 358/2013, decided by this Tribunal on 6.9.2013. Hence, this O.A.

4. The respondents oppose the Original Application. They submit that despite knowing it well and warning to the effect in the attestation form, the applicant failed to furnish correct information. He did not disclose about the criminal case. The office of Collector & District Magistrate, Ratlam, vide letter dated 15.10.2015, informed that a Criminal case No. 149/21.5.2005 u/s 341, 324, 506, 34 IP was registered wherein challan No. 115 of 23.5.2005 and case No. 998/30.5.2005 was filed. The applicant was acquitted on the basis of compromise entered into between the parties. Thus, the candidature of the applicant was rightly cancelled.
5. No rejoinder has been filed by the applicant.
6. We have heard the learned counsel for the parties at length and examined the material on file.
7. The issue as raised in this case has been in controversy from time to time. The Hon'ble Apex Court in the case of

Commissioner of Police & Others Vs. Sandeep Kumar,

(2011) 1 SCC (L&S) 734, has crystallized the law. In that case was also respondent Sandeep Kumar was involved in a criminal case which was closed after compromise about which he did not mention in the application form. In these circumstances, the Court held that when incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be pardoned. After all, youth will be youth. They are not expected to behave in as mature manner as older people and hence the Court held that our approach should be to condone minor discretions made by young people rather than to brand them as criminals for the rest of their lives. The Apex Court also held that perhaps he did not mention that he was involved in a criminal case under relevant sections out of fear that if he did so, he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape and hence a more lenient view should be taken in the matter. Following the same even a Bench of this Tribunal in the case of **Sukh Lal Jat** (supra) allowed similar claim.

8. The Apex Court in SLP ©No. 20525 of 2011 titled **Avtar Singh Vs. UOI etc.** decided on 21.7.2016 has summarized the law specifically as to in which conditions, the employment can be denied to a candidate. The same reads as under :-

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30. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus :-

(1) Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

(2) While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

(3) The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

(4) In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted : -

(a) In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent

unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse."

9. Similarly, the Hon'ble Apex Court in **Manjunatha Vs. State of Karnataka & Others**, 2015 (1)SCT 507, has taken similar view. In that case also the applicant had not furnished information as required under column Nos. 12 and 13 of the application form which was held to be neither intentional nor deliberate and it was not with a view to misrepresent and mislead the department to get public employment. There was no basic disqualification suffered by the petitioner for appointment for withholding the information required to be furnished under Column Nos. 12 and 13 in the application form.
10. If the case of the applicant in hand is considered in the light of the judicial pronouncement above, it would be clear that the applicant was involved in an offence in which he was acquitted by way of compromise in 2005 and he had to fill up the form only in 2015, after a decade, and that being the position, the applicant cannot be non-suited for appointment in question as it does not make him ineligible for the post as such an offence has to be condoned more so when same had been compromised between the parties.
11. In view of the above discussion, this Original Application is allowed. Impugned orders, Annexures A-1 and A-13 are quashed and set aside. The respondents are directed to reconsider the issue and take further action in the matter

accordingly, within a period of 3 months from the date of receipt of a certified copy of this order.

12. No costs.


(SANJEEV KAUSHIK)
MEMBER (J)


(MRS. MEENAKSHI HOOJA)
MEMBER (A)

Place: Jaipur
Dated: 7.10.2016

HC*

