

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

C.A No.370/99

Date of order: 23/8/2007

Manohar Lal Meena, S/o Sh.Kanhiyalal, R/o C-81, J.P.  
Colony, Tonkphatak, Jaipur.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt,  
Telecommunication Deptt, New Delhi.
2. The General Manager, Telecommunication Deptt, District  
Jaipur.
3. Divisional Engineer Phones (Admn), O/o General Manager  
Telecommunication, Distt. Jaipur.

...Respondents.

Mr.Vinod Goyal Proxy of Mr.Virendra Lodha - for applicant.

Mr.Hawa Singh, Proxy of Mr.V.S.Gurjar - for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.A.P.Nagrath, Administrative Member.

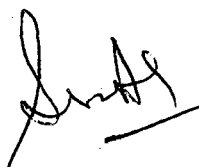
PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

Facts admitted in this case by both the parties are that in response to the advertisement for the selection on the post of Driver, the applicant submitted his application and he was interviewed on 26.3.99 and thereafter the applicant was selected against reserved vacancy for ST community. It is stated that the respondents' department requested the District Magistrate, Jaipur for varification of the character antecedents of the applicant before giving him appointment and in pursuance of this, the Addl.District Magistrate Jaipur, vide his letter dated 3.7.99, informed the respondents' department that a criminal case No.65/98 under Sec.447 IPC was registered against the applicant and others at Police Station, Malviya Nagar, Jaipur and after investigation, the charge sheet was filed in the Court of Additional Civil Judge (JD) &

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23/8/2007

Judicial, Magistrate No.18, Jaipur, which is pending. Thereafter, respondent No.3 issued the impugned letter denying the appointment on the post of Driver to the applicant. It is stated that the impugned action of the respondents is illegal, arbitrary, unjust and in violation of Articles 14, 16 and 21 of the Constitution of India. It is further stated that pending criminal case against the applicant which does not involve the moral turpitude, does not disqualify the applicant from employment in public service and in the attestation form, the applicant did not think it proper to mention about the pending criminal case because the alleged offence does not involve any moral turpitude, therefore, nonmentioning of the same is not fatal and does not disqualify the applicant for appointment of the post of Driver.

2. Reply was filed. In the reply, it is stated that the applicant furnished false information in para No.12 of the attestation form, therefore, the applicant is guilty of suppression of material fact which alone would render the applicant disqualify from the select list. It is stated that a criminal case for the offence under Sec.447 IPC was pending against the applicant and others before the Court of Additional Civil Judge (JD) & Judicial Magistrate No.18, Jaipur City, but the applicant suppressed this material fact at the time of fillingup the attestation form for character verification. Therefore, the action of the respondents denying the applicant appointment on the post of Driver vide the impugned order is perfectly legal, valid and the applicant is not entitled to any relief sought for.

 3. Heard the learned counsel for the parties and also perused the whole record.

4. The learned counsel for the applicant has argued that pending criminal case against the applicant for the offence

under Sec.447 IPC does not involve moral turpitude is no ground to refuse the appointment to the applicant in public service on the post of Driver when the applicant was a duly selected candidate after following the due process of selection. In support of his contention, the counsel for the applicant has referred the decision given in (i) S.B.Civil Writ Petition No.2057/95 decided by the Rajasthan High Court on 18.5.98, (ii) Brijendra Singh Meena Vs. State of Rajasthan, 1998(2) WLC (Raj) 456. On the other hand, the learned counsel for the respondents has urged that the applicant has suppressed the material fact which itself was an indicative of his bad character, therefore, on this ground alone, the respondent department was fully justified in denying the appointment to the applicant. In support of his contention, he has drawn our attention in (i) Delhi Administration Vs. Sushil Kumar, 1996(11) SCC 605, (ii) Birdhi Chand Jat Vs. State of Rajasthan (DB) RLW 2000(2) Raj 1263 and (iii) Dharam Pal Singh Vs. State of Raj. & Ors (FB) RLW 2000(2) Raj 815.

5. We have given respectful consideration to the citations referred to above.

6. In Birdhi Chand Jat, Vs. State of Raj. & Ors, it was held that the application form contained a column requiring the appellant to disclose about the pendency of criminal proceedings, if any, on the date of filling the application form, criminal proceedings were pending against the appellant, subsequent acquittal is of no consequence. This view was taken by the Rajasthan High Court on the basis of judgment delivered by the Supreme Court in Delhi Administration Vs. Sushil Kumar.

7. In Dharam Pal Singh Vs. State of Rajasthan & Ors, the Full Bench replied the questions formulated and held that a candidate if prosecuted or subjected to investigation of criminal charge is a material fact and suppression of which

would entitle an employer to deny the employment to a candidate on that ground and ultimately acquittal of the candidate would not condone the consequence of suppression of material fact.

8. We have also perused the cases referred by the learned counsel for the applicant and in view of the facts and circumstances of this case and law laid down by the Hon'ble Supreme Court and Full Bench decision of the Rajasthan High Court, the cases referred by the counsel for the applicant do not help the applicant in any way.

9. We, therefore, do not find any merit in this O.A and the same is liable to be dismissed at the stage of admission.

10. We, therefore, dismiss the O.A having no merits with no order as to costs.



(A.P.Nagrath)

Member (A).



(S.K.Agarwal)

Member (J).