

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.1019/04

~~Bilaspur~~ this the 16th day of ^{March} 2005.

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Dipak Chaurasia
S/o Rajendra Chaourasia
R/o Ukhari Road
Dist.Jabalpur.

Applicant.

(By advocate Shri V.Tripathi)

Versus

1. Union of India through its
Secretary
Ministry of Defence
Department of Defence Production
New Delhi.
2. Chairman/DGOF
Ordnance Factory Board
10-A,S.K.Bose Road
Kolkata.
3. General Manager
Ordnance Factory
Chanda (M.S.) 442 501

Respondents

(By advocate Shri P.Shankaran)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following main reliefs:

- (i) To set aside the impugned order dated 18.10.2004 (Annexure A1).
- (ii) Direct the respondents to treat the applicant as appointed with all consequential benefits including the seniority, pay scale, arrears of

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pay and other benefits as if the impugned order dated 18.10.2004 is never passed.

2. The brief facts of the OA are that the applicant acquired the apprentice training from the respondent organization and accordingly submitted his candidature for appointment on the semi-skilled post. He was considered by the third respondent for appointment on the post of Danger Building Worker semi-skilled. By order dated 8.4.2004, the applicant was offered appointment as Danger Building Worker (Annexure A2). The applicant was directed to join on or before 25.10.2004. However, the applicant could not join duties in pursuance of the said appointment order because of issuance of impugned order dated 18.10.2004 (Annexure A1) whereby his appointment was cancelled. No opportunity was given to the applicant. The action of the respondents is against the principles of natural justice, equity and fair play. A perusal of the impugned order shows that it has been issued on the allegation that the applicant has suppressed the fact in the attestation form that a criminal case No.315/98 under sections 107,116(3) of Cr.P.C. was lodged against him. The applicant was required to fill up three sets of attestation form. He filed three sets of form – one was forwarded to the employer and the other was submitted in the office of the Superintendent of Police, Jabalpur. There is a mentioned in the order of pendency of criminal case against the applicant. The applicant was exonerated/acquitted on 10.6.99 much before the submission of his candidature for selection in question and much before filing of the attestation form. Feeling aggrieved, this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant The applicant was required to fill up three sets of attestation form. Due to inadvertence, the information regarding proceedings under section 107 and 116 (3) of Cr.P.C. could not be mentioned in the attestation form so submitted to the employer. He filed three sets of form while it was mentioned in other forms. The applicant was exonerated/acquitted on 10.6.99 from the aforesaid proceedings while

he submitted his attestation form after about 5 years on 18th August 2004. The applicant has not suppressed any material fact or information in the attestation form. The question in para 12 (i)(d) of the attestation form is "Have you ever been bound down? The answer is "No". The applicant was not given any opportunity of hearing before passing the impugned order canceling the appointment of the applicant. Otherwise, he could have informed the respondents also that he had not concealed or suppressed any material fact. The learned counsel of the applicant further argued that apart from the above, there is no criminal case pending or lost against the applicant. Hence the applicant is legally entitled for the reliefs claimed.

4. In reply, the learned counsel for the respondents argued that the cancellation of the appointment of the applicant was on the ground of suppression of material information and making false statement in the attestation form. The applicant was issued with appointment order to the post of Danger Building Worker which has importance with regard to handling of explosive and also considered very sensitive from the national security. Therefore, the character, conduct and antecedents of a person to be employed there are of prime importance. Specifically, persons having criminal antecedents cannot be appointed on such sensitive posts. The appointment was made on provisional basis for a period of 90 days pending verification of character and antecedents, police verification report etc. The applicant had suppressed the information that there was a case registered against the applicant on the criminal record of Police Station, Sambhar. Hence the appointment order issued to the applicant was cancelled. The action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that the applicant was duly appointed by the respondents on the post of Danger Building Worker on a starting pay of ~~Rs.26500/-~~ ^{Rs.26500/-} in the pay scale of Rs.2650-4000. and by order dated



8.10.2004 he was directed to join duty on or before 25.10.2004. Meanwhile the impugned order dated 18.10.2004 (Annexure A1) was issued thereby ~~cancelling~~ the appointment of the applicant on the ground that the applicant had concealed and suppressed the material facts about a criminal case registered against him. We have perused the attestation for Annexure A3 in which the answer to the question at para 12 (i) (d) is in the negative. We have also perused Annexure A4 in which against Sl.No.1 – 1520/98 date of institution of proceedings is mentioned as 18.11.98 and by order dated 10.6.99 the aforesaid case under Sections 107 and 116(3) of Cr.P.C. was dismissed after enquiry. The attestation form was submitted after about 5 years i.e. on 18th August 2004. From a perusal of the aforesaid order dated 10.6.99, it is apparently clear that the applicant was not bound down under section 107 & 116 (3) of Cr.P.C. and there was no case pending against him in any court of law at the time of filing of the attestation form.

6. Considering all facts and circumstances of the case, we are of the opinion that the OA deserves to be allowed. Accordingly the OA is allowed. The impugned order dated 18.10.2004 (Annexure A1) is quashed and set aside and the respondents are directed to permit the applicant to join on the post of Danger Building Worker for which he was appointed, within two months from the date of receipt of a copy of this order. However, the applicant shall not be entitled for service benefits. It is also made clear that the respondents are at liberty to take action against the applicant if any other criminal case was pending against the applicant which would have been concealed by him in his attestation form.

7. The OA is disposed of as above. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman