

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

JABALPUR.

....

Original Application No. 173 of 1998

this the 28<sup>th</sup> day of February 2003.

HON'BLE MR. R.K. UPADHYAYA, MEMBER (A)  
HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Hari Lal Kunde, S/o Babulal Kunde, aged about 32 years,  
Phone Mechanic, R/o New Bus Stand, Nagar Nigam Colony,  
Near Police Chouki Katni, District Jabalpur.

Applicant.

By Advocate : Sri C.K. Misra.

Versus.

1. Union of India through the Senior Supdt. Tele. Trf.,  
Jabalpur.
2. The Supdt, C.E.O., Jabalpur.
3. The Assistant Supdt., Tele. Trf. I/c Telegraph Office,  
Katni.
4. The General Manager, Telecom., Jabalpur.

Respondents.

By Advocate : Sri S.A. Dharmadhikari for Sri B. Dasilva

ORDER

BY MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., the applicant has challenged the order dated 3.6.1997 (Annexure A-2) whereby his services have been terminated under sub-rule 1 of Rule 5 of the Central Civil Services (Temporary Services) Rules 1965 after giving him one month's notice.

2. It is submitted by the applicant that he was initially engaged as a casual labour on 22.2.1985 and since then he had been working continuously till 3.6.1997 when he was



suddenly given an order dated 3.6.1997 terminating his services. Being aggrieved, he gave a representation (Annexure A-3) followed by legal notice through the counsel on 16.7.1997. However, the appeal was rejected vide order dated 7.1.1998 (Annexure A-8). Therefore, he has no other option, but to file the present O.A.

3. It is submitted by the applicant's counsel that the applicant is un-educated person, who had no intention of suppressing any material facts from the respondents and in any case he has already been acquitted in the criminal case vide judgment dated 24.2.2001, which is annexed as Annexure-9 with the Rejoinder affidavit. The applicant's case is that he was falsely implicated in the criminal case and the respondents ought to have waited till the final out come of the criminal case and since he has already been acquitted in the criminal case, the termination order is illegal and is liable to be quashed.

4. The respondents have opposed the O.A. and have submitted that ~~it~~ is correct that the applicant was initially engaged as casual labour on daily wages w.e.f. 22.2.1985, but at the time of regularisation when the formalities <sup>were</sup> being completed, the Police Verification and attestation form was referred to the District Magistrate, Jabalpur, who vide his letter dated 8.4.1997 brought to the notice of the respondents that a criminal case was pending against the applicant. It is submitted by the respondents that in the attestation form, the applicant had declared that there is no case pending against him in column 12, which was a wrong and false declaration. Accordingly, he was issued a show-cause notice dated 5.5.1997, which was received by the applicant on 7.5.1997, but the applicant did not submit any representation, therefore, the competent authority rightly terminated the services of

the applicant. They have submitted that since the applicant has concealed the material fact from the court also, this O.A. is liable to be dismissed on this ground itself, apart from it being devoid of merits. They have, thus, submitted that the applicant's services have been terminated for making false declaration and does not depend upon the out come of the criminal case pending against him.


5. Since the respondents had not annexed the report given by the District Magistrate, we had directed the respondents' counsel to produce the records for our perusal. The respondents have since produced the records.

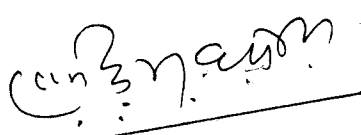
6. We have heard both the counsel and perused the pleadings and original record as well.

7. The facts as narrated by the respondents show that the applicant's services had been terminated for making a false declaration. It would be relevant at this point to refer <sup>to R</sup> the judgment of Hon'ble Supreme Court in the case of Delhi Administration through its Chief Secretary vs. Sushil Kumar (1997 SCC (L&S) 492) wherein the Hon'ble Supreme Court had an occasion to deal with the similar situation. In the said case, since the respondent therein had been acquitted in the criminal case, the Tribunal had directed the Delhi Administration to re-consider the case of the respondent, but the Hon'ble Supreme Court has held that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was found physically fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable

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in the disciplined force. The Hon'ble Supreme Court has further held that the view taken by the appointing authority in the background of the case cannot be said to be unwarranted, therefore, the directions given by the Tribunal for re-consideration of the case was held to be totally unjustified. It was also held that discharged or acquitted in the criminal case has nothing to do with the present case as it would be conduct or character of the applicant, which would be relevant before appointing a person in the service and not the actual result of the candidate. <sup>called</sup> In our considered view ~~that~~ the present case is fully covered by the judgment as given by the Hon'ble Supreme Court, as referred to above. Similarly in 1999 (1) AISLJ Punjab & Haryana High Court 18 ~~wherein~~ it was held that a person who suppressed the material fact at the initial stage of appointment itself, is not likely to <sup>be</sup> a good officer and, therefore, his termination was held to be right. In the present case also, the ~~attestation~~ <sup>form</sup> given by the applicant shows that the applicant did mention in column 12 <sup>R No R</sup> where he was asked to declare whether there is any criminal case pending against him, therefore, the wrong declaration is not disputed by the applicant at all. He ~~has~~ only submitted that this was done as he was unaware of the consequences. In the instant case, it is not a case ~~wherein~~ where the applicant is being dismissed on the point of mis-conduct, therefore, the question of ~~withholding~~ the enquiry does not arise. As it was found that the applicant had suppressed the material fact from the authorities, they rightly came to the conclusion that the applicant was not fit to <sup>be</sup> retained in the service. Accordingly, we do not find any ground to interfere in the matter. The O.A. is accordingly dismissed with no order as to costs.

  
(MRS. MEERA CHHIBBER)  
MEMBER (J)

  
( R.K. URDHAYA )  
MEMBER (A)

पृष्ठक्रम सं ओ/व्या.....जबलपुर, दि.....

संख्या.....

(1) .....

(2) .....

(3) .....

(4) .....

सूचना एवं आवश्यक कार्यवाही

C.K. Mishra - A/c

B. Dasia - A/c

*Handwritten signature*  
4/3/03

Issued  
on 5-3-03  
*Handwritten initials*

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