

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 615 of 1999

Jabalpur, this the 4th day of February, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G. Shanthappa, Judicial Member

Arun Kumar Shrivastava S/o Shri
R.S. Shrivastava, aged about 35
years, C/o Shri Ramshankar
Shrivastava, Medical Assistant
G.C.F. Hospital, Jabalpur

APPLICANT

(By Advocate - Shri M.K. Verma)

VERSUS

1. Union of India
Through; Secretary, Ministry
of Defence, New Delhi.
2. The Director General/Chairman
Ordnance Factory Board, 10-A
Khudiram Bose Market, Auckland
Road, Calcutta - 700 001.
3. The General Manager,
Gun Carriage Factory, Jabalpur

RESPONDENTS.

(By Advocate - Shri B.de.Silva)

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By G. Shanthappa, Judicial Member -

The applicant has filed above OA, to quash the order dated 12.9.1997 (should have been 12.9.1998) and direct the respondents to consider the case of the applicant for suitable appointment in their establishment.

2. The brief facts of the case are that the applicant was appointed as Messenger Boy w.e.f. 31.5.1981. His service was terminated during the probation period i.e. on 18.9.81. While terminating his service, there was no notice given to the applicant. Hence, he had filed an appeal before the second respondent. The appellate authority had shown lenient view and directed the respondent No. 3 to give a chance for the post of Messenger as a fresh appointee subject to the condition that no benefit of past services will be given. Accordingly the respondent No. 3 had supplied a set of attestation forms as per Annexure-A-4.

The applicant had submitted, after duly filled and signed attestation form. In the attestation form, he has submitted that no criminal case is pending against him. ~~His criminal case was pending.~~ the applicant was acquitted from the charge on 19.9.1983. Hence, the applicant was eligible for appointment and he was willing to forego his earlier claims arising out of his initial appointment w.e.f. 21.5.1981.

3 Since no action has been taken by the respondents.

The applicant had filed OA No. 317/97 before this Tribunal. The Tribunal has disposed of said OA on ¹¹⁻²⁻¹⁹⁹⁸ ~~11-2-98~~ with a direction to consider the case of the applicant. Thereafter the applicant had received the impugned order dated 12.9. ¹⁹⁹⁸ ~~1997~~ in which the claim of the applicant has been rejected on the ground that the gravity of misconduct and antecedents of the applicant, facts and circumstances of the case, born on records and existing situation etc., the respondents regretted the case of the applicant. Aggrieved by this order the applicant has filed above OA.

4. The respondents have filed their reply denying the averments and allegations made ~~against~~ ^{by} in the OA. The respondents had issued a set of attestation forms (Annexure-R-1). On the first page of the attestation form there is a " warning " that suppression of any factual information in the attestation form would be a disqualification and would render the candidate unfit for employment under the Government. As per attestation form page 3 under item 12, whether he had been arrested/prosecuted, kept under detention etc., to which he had replied in the negative. The respondents have verified the same and they came to know that the following criminal cases are pending against the applicant which ^{are} ~~is~~ as follows :-

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<u>S.No.</u>	<u>Case No.</u>	<u>Name of Court</u>	<u>Sections of IPC Under which he was charged</u>	<u>Offence</u>
1.	389/80	Ku RB Jamal 1st Class Magistrate, JBP	294, 336 & 506	x performances of obscene action at public place singing of obscene songs etc Doing of a rash act endangering human lives, Criminal intimidation.
2.	1274/80	KuRB Jamal 1st Class Magistrate, JBP	147, 294 323 & 324	Rioting etc. Please see x Voluntarily causing hurt by means of instrument for shooting, stabbing or cutting etc.
3.	1281/80	Ku RB Jamal, 1st Class, 324, 326 Class Magistrate JBP Shri K.P. 107, 151 Dixit, Executive Magistrate I Class, Jabalpur	324, 326 107, 151	Please see y voluntary causing grievous hurt. Security for keeping place, knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

5. The father of the applicant and mother of the applicant had submitted ^{their} ~~the~~ representation to the respondents as well as the Prime Minister of India and also Ministry of Defence. Since the applicant has suppressed the facts ^{of} pendency of criminal cases, in view of judgment of the Hon'ble Supreme Court Delhi Administration through its Chief Secretary & Ors. Vs. Sushil Kumar 1997 (1)SLR 123, the application is liable to be dismissed.

6. We have heard the learned counsel for the parties and perused the pleadings and documents.

7. The admitted facts are that the applicant has

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suppressed the facts and the pendency of criminal cases against him. On account of the attestation form which was supplied to the applicant he has suppressed the facts, the applicant was disqualified for employment. The applicant purposely suppressed ^{the} facts, only to get an employment, mentioning that " he was not arrested, no criminal cases are pending against him".

8. The Hon'ble Supreme Court has held in the case of Delhi Administration through its Chief Secretary (supra) (in para 3) as follows :-

"..... It is seen 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 physically found 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 to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences. The consideration relevant to the case is of the antecedents of the candidate. Appointing authority therefore, has rightly focussed this aspect and found him not desirable to appoint him to the service."


The said judgment is squarely applicable to the facts of this case, the applicant has wrongly verified in his application regarding character and antecedent for which he is found disqualified for appointment under the Government.


9. The respondents have considered all aspect of the case and passed the considered and reasoned order-
Annexure-A-1. We do not find any illegality or



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irregularities while passing the impugned order. Hence,
we do not find any merits in the case. Accordingly
the OA is dismissed. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

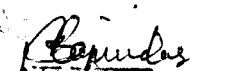
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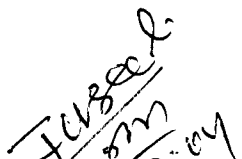
पृष्ठान्कन सं. ले/का..... दि.....

सचिव/सचिवी

- (1) सचिव/सचिवी
- (2) सचिव/सचिवी
- (3) सचिव/सचिवी
- (4) सचिव/सचिवी

सूचना एवं अंतरा...


Rajendra
10/2/04


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