

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 28<sup>th</sup> day of March, 2011

**Original Application No.422/2006**

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**  
**HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Vikas Tyagi  
s/o Shri R.D.Tyagi,  
r/o 106/23, Kabir Marg,  
Mansarowar,  
Jaipur

.. Applicant

(By Advocate: Shri P.V.Calla)

Versus

1. The Union of India  
through the Secretary to the Government,  
Ministry of Finance,  
Department of Revenue,  
New Delhi.
2. The Commissioner,  
Central Excise, Jaipur-I,  
New Revenue Building,  
Statue Circle,  
C-Scheme, Jaipur
3. The Additional Commissioner (P&V),  
Jaipur, Office of the Commissioner,  
Central Excise, Jaipur-I,  
New Revenue Building,  
Statue circle, C-Scheme,  
Jaipur.

.. Respondents

(By Advocate: Shri Tej Prakash Sharma)

ORDER (ORAL)

The brief facts of the case are that the applicant while working on the post of Inspector, Customs and Central Excise, Jaipur was terminated vide order dated 16.2.2000. Being aggrieved from the order of termination, the applicant has filed OA before this Tribunal challenging validity of the termination order on various grounds.

2. The official respondents have filed reply and while filing reply, it has been pleaded that due to submission of wrong medical certificate issued from the Medical Board, Jabalpur, the matter was referred to C.B.I. for committing forgery. The C.B.I. then filed challan before the competent criminal court i.e. C.B.I. Court, Jaipur. Apart from above, it was alleged that the applicant has suppressed a vital information regarding he is being colour blind and secured the job.

3. Earlier OA No.384/2000 filed by the applicant was dismissed on 19<sup>th</sup> January, 2004 and during the pendency of the aforesaid OA, the Special Judicial Magistrate (SPE Cases), Jaipur found the applicant guilty of the offence under Section 420 of I.P.C. and convicted him and as a penalty he was ordered to be sent for 6 months' simple imprisonment with a penalty of Rs. 1000/-. Against the conviction order, the applicant preferred a Criminal Appeal before the learned Additional District and Sessions Judge, Jaipur. During pendency of the above appeal, this Tribunal taking into consideration the fact that since the applicant has been found guilty of the forgery committed by him by the competent court of



law, the OA was dismissed which was not challenged by the applicant before the Hon'ble High Court because the criminal appeal was pending. The Criminal Appeal was allowed by setting aside the order of conviction dated 22.9.2000 and acquitting the applicant and after acquittal in the criminal charges, the applicant submitted representation stating therein that in view of the acquittal order dated 21.7.2006, he may be reinstated with all consequential benefits.

4. A letter dated 6.9.2006 was served upon the applicant by the respondents wherein it was conveyed that since the order of termination has been upheld by this Tribunal on 19.1.2004, therefore, the termination order has attained finality.

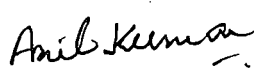
5. We have carefully considered the submissions made by the respective parties and upon careful perusal of the material available on record, as in the present case, the applicant has challenged Ann.A/1 and A/2 dated 16.2.2000 and 6.9.2006 respectively, to examine whether the termination order passed by the respondents is correct in the eyes of law or not, we have considered the fact that in view of the condition of service and offer of appointment, the applicant reported for medical examination in the office of Superintendent, SMS Hospital, Jaipur. The medical authority after examining the physical fitness of the applicant issued a certificate dated 20.1.1996 declaring that the applicant is colour blind from red colour. This Tribunal vide order dated 19.1.2004 passed in earlier OA in Para 7 and 8 has categorically held that the applicant was not found fit by the SMS



Hospital, Jaipur for the post of Inspector on the ground that he was suffering from colour blindness for red colour and the respondents were held justified in terminating the service of the applicant vide order dated 16.2.2000 and found no infirmity in the said action of the respondents.

6. Now merely because the applicant has been acquitted by the appellate court in the criminal case does not give any right to the applicant to again challenge the order of termination which was already upheld by this Tribunal vide order dated 19.1.2004. The disciplinary proceedings and criminal proceedings are altogether different. Even the applicant is discharged and acquitted by the appellate court from the criminal charges, then also, in view of the medical certificate given by the SMS Medical Hospital, Jaipur, the impugned termination order cannot be said to be illegal or contrary to the provisions of law. Since the Tribunal has already exercised the power and detailed order has been passed, as such, we find no reason to entertain this OA merely on the ground that the applicant has been acquitted by the appellate court.

7. Thus, we find no merit in this second round of litigation and the same is dismissed in terms of the order passed by this Tribunal in the earlier OA No.384/2000 vide its order dated 19<sup>th</sup> January, 2004 with no order as to costs.

  
(ANIL KUMAR)  
Admv. Member

  
(JUSTICE K.S.RATHORE)  
Judl. Member

R/