

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 07.04.2015

ORIGINAL APPLICATION NO. 060/00599/2014
Chandigarh, this the 10th day of April, 2015

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CORAM: HON'BLE MS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)
...

Narender Kumar son of Shri Mehak Singh, aged 29 years, Ex-Constable, Belt No. 5078/CP, resident of Village Sikhri Khurd, Tehsil & P.O. Modi Nagar, District Ghaziabad (Uttar Pradesh).

...APPLICANT

BY ADVOCATE: SHRI ROHIT SETH

VERSUS

1. Union of India through the Secretary, Government of India, Ministry of Home Affairs, New Delhi.
2. Secretary, Home Department, U.T. Administration, Chandigarh.
3. The Inspector General of Police, U.T. Administration, Chandigarh.
4. The Deputy Inspector General of Police, U.T. Administration, Chandigarh.
5. The Senior Superintendent of Police, U.T. Chandigarh.

...RESPONDENTS

BY ADVOCATE: SHRI ASEEM RAI

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ORDER**HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J):-**

This is the second round of litigation by the applicant, an ex-Constable in the Chandigarh Police, who had joined on 01.05.2011, against the order dated 29.05.2012 (Annexure A-2) discharging him from service under PPR 12.21, stating that he is not likely to prove an efficient police officer. The first O.A., i.e., the O.A. No. 1484-CH-2012, filed by the applicant, was disposed of by us, vide our Order dated 14.02.2014 (Annexure A-4), the operative part whereof reads as under:

"6. It is significant to note that the impugned order Annexure A-1 followed the erroneously perceived information about existence of an NCR against the applicant, taking the same to be an FIR (vide Annexure A-5). The applicant's representation/appeal dated 15.06.2012 was also simply filed (Annexure A-2), not "duly considered", as stated in the short reply. In this view of the matter, we direct the respondents to reconsider the case of the applicant in proper perspective within three months from the date of receipt of a copy of this order.

7. The O.A. is disposed of with the above direction. No order as to costs."



2. Followed the impugned order dated 03.07.2014 (Annexure A-1), which is the subject matter of challenge in the instant O.A. The last paragraph of the said order reads as under:

"I have reconsidered the matter in the light of observations of Hon'ble CAT and facts & circumstances of the case on record. The applicant has been involved in a brawl and registration of NCR 32/11 under section 323/506 IPC against him, are facts on record. Apart from this, while joining on appointment as Constable on 01-05-2011 nor thereafter during training he disclosed this fact to the department till asked to clarify. Police is a disciplined force and personnel appointed therein are expected of high standards and good behavior. I have, thus, no reasons or grounds to disagree with the opinion formed by my predecessor that the applicant was not likely to prove an efficient police officer and thus not fit to be retained in a disciplined force. The orders of his discharge, therefore, need no interference."

3. We have heard the learned counsel for the parties, perused the pleadings and the rulings cited by them, and given our thoughtful consideration to the matter.

4. Rule 12.21 of the Punjab Police Rule 1934, under which the applicant has been discharged from service, reads as under:

"Discharge of Inefficients.- A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule."

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5. A Full Bench of the Hon'ble Punjab and Haryana High Court in **Sher Singh Vs. State of Haryana and Others** [1994 (2) SLR 100], speaking about the above-quoted rule, observed as under:

"20...for a period of three years, a constable is under surveillance. He is being watched. He is kept under close supervision. He has no right to the post. His services are terminable at any time during this period of three years. He can secure his position in the Service only if he convinces the Superintendent of Police that he is likely to prove an efficient police officer.

"21. Necessarily, the question that arises is as to when can a person be said to be not efficient ? Ordinarily, according to the dictionary, a person is said to be efficient when he can perform a task "in the best possible manner." Efficiency in its ordinary sense means "suitability for a task or purpose." In fact, even the rules contain a clear indication regarding the qualities which a constable must possess. While emphasising the importance of training, Rule 19.1 specifically provides that "the object of such training shall be to inculcate in police officers habits of physical health, activity, discipline, self-reliance, observation, punctuality, sobriety, courtesy and straight-forwardness of dealing in the execution of their work as also a knowledge of the technical details of the work required of them." These are the qualities which an efficient police officer must possess. One who lacks any of these qualities cannot be said to be efficient. The rules contain the necessary guidelines for the Superintendent of Police on the basis of which he has to form an opinion regarding a constable. If on a consideration of the relevant material, the Superintendent of Police finds that a particular constable is not active, disciplined, self-reliant, punctual, sober, courteous or straight-forward or that he does not possess a knowledge of the technical details of the work required of him, he can reasonably form an opinion that he is not likely to prove an efficient police officer. In such a situation, the Superintendent of Police can invoke his power under Rule 12.21 which only embodies a facet of the doctrine of pleasure as contained in

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Article 310 of the Constitution of India. He can discharge the constable from the force.

"22. Another fact which deserves to be mentioned is that every police officer wields wide and varied powers. A man in uniform is the embodiment and symbol of Government's authority. It is through him that the Government acts to assert its power and can deny a citizen even his right to life and liberty. It is thus of utmost importance that he possesses the qualities enumerated in Rule 19.1 in ample measure. However, if on account of one reason or the other, the Superintendent of Police, who is the head of the force in the district forms an opinion that a constable is not likely to become an efficient police officer, he has been given the power to discharge him from service. This opinion can be formed not only on the basis of the periodical reports recorded on the performance of a constable, but also on any other data or information which may be available to the Superintendent of Police. This is, of course, subject to the condition that the Superintendent of Police cannot act arbitrarily. The opinion should not be whimsical. The opinion, though subjective, has to be formed on some objective date. So long as this requirement is fulfilled, the action would normally be within the ambit of Rule 12.21.

"32...The rule does not enjoin upon the authority to wait from a constable to commit 'consistent lapses or misbehaviour'. A single act of indiscipline can lead the competent authority to conclude that the constable is unlikely to prove an efficient police officer and to discharge him from service.

"37...even in a case where the periodic reports are good, some material can come to the notice of the authority which may show that the concerned constable is not likely to become a good police officer. There may be a complaint against a constable which may show that his integrity is doubtful or that he is not disciplined. If on the basis of such a material, the Superintendent of Police forms an opinion that the constable is unlikely to become an efficient police officer, there is nothing which debars him from passing an order of discharge under Rule 12.21."

6. In the light of the above, we do not see any infirmity or illegality in the impugned order dated 03.07.2014 (Annexure A-1) and are of the view that the O.A. is devoid of merits.

7. Hence, the O.A. is dismissed. No order as to costs.

B. A. Aggarwal
(DR. BRAHM A. AGRAWAL)
MEMBER(J)

Rajwant Sandhu
(RAJWANT SANDHU)
MEMBER(A)

Dated: 10 .04.2015

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