

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Pronounced on: 2. 3. 2016
Reserved on : 19.02.2016

OA. No. 060/00649/2014

**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER(J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER(A)**

Gurnam Singh s/o Partap Singh r/o Kamboj Nagar, Dulchi Ke Road,
Near Old Ice Factory, Ferozepur City.

.....Applicant

BY ADVOCATE: Sh. Puneet Kumar Bansal

Versus

1. Union of India through Secretary, Ministry of Home Affairs, New Delhi
2. Director, Intelligence Bureau, Ministry of Home Affairs, Government of India, New Delhi
3. Assistant Director, Intelligence Bureau, Ministry of Home Affairs, Government of India, New Delhi.

.....Respondents

BY ADVOCATE: Sh. Sanjay Goyal

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief(s):-

- (i) Order Annexure A-4 may kindly be quashed and directions be issued to the respondents to issue appointment letter for the post of Assistant Central Intelligence officer - II/Executive to the applicant.
- (ii) Applicant be given seniority from the date when other applicants had joined and also be paid salary and other consequential benefits for the above said period.
- (iii) That the damages and costs be imposed on the respondents and awarded in favour of the applicant.

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2. It is stated in the OA that an advertisement was issued by the respondents for filling the post of Assistant Central Intelligence Officer-II/Executive. The applicant applied for the post under the OBC Category and was allotted Roll No. 08013073 and Registration No. of the applicant was MHA100418505. The applicant appeared for the written examination held on 23rd September, 2012 and also appeared for the interview held in December, 2012. Thereafter, list of the candidates including the applicant, who were selected for the appointment to the post of ACIO-II/Exe was published (Annexure A-2).

2). However, when the applicant did not get appointment letter despite passage of considerable time, he wrote to the Assistant Director/G, Intelligence Bureau regarding his grievance (Annexure A-3).

3). The applicant was then informed vide letter dated 20.01.2014 (Annexure A-4) that his candidature had been rejected. In this order, it was mentioned that appointment letter cannot be issued after comprehensive scrutiny of documents along with reports on character and antecedents.

3. Averment has been made in the O.A. that the manner in which the candidature of the applicant was cancelled, is stigmatic, adversely affecting his future prospects and was passed without giving an opportunity of being heard and without even disclosing the reasons of cancellation. Thereafter, applicant requested respondents No. 2 and 3 that he be informed about the reasons for rejection of his candidature (Annexure A-5 colly.), but to no avail. Applicant then filed RTI application dated 4.6.2014 asking about the reasons for

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cancellation of his candidature (Annexure A-6). In reply thereto, it was stated that as per Section 24(1) of the RTI Act, Intelligence Bureau is exempted from giving such information (Annexure A-7). The applicant then filed appeal dated 26th June, 2014 before the Appellate Authority as well but no information had been provided so far. Hence this OA.

4. In the written statement filed on behalf of the respondents, it has been stated that the applicant was selected for the post of ACIO-II/Exe in IB on the basis of examination 2012. The cut-off date for determining eligibility criteria for the said examination was 19.08.2012. While providing information in the prescribed Attestation Form/Special Security Questionnaire (SSQ), the candidate suppressed the fact of his past employment besides providing a photocopy of OBC certificate which was issued after the cut-off date. The DOPT instructions in this regard (Annexure R/1) clearly stipulated that the appointing authority, before appointing a person seeking appointment on the basis of reservation to OBCs should verify the veracity of the community certificate submitted by the candidate and also the fact that he/she does not fall in 'Creamy Layer' on the crucial date. This rendered the applicant ineligible for appointment in accordance with the Government of India instructions/guidelines in this matter. Therefore, the candidature of the applicant was cancelled in accordance with guidelines of Government of India.

5. Besides, the applicant was also found suppressing a significant piece of material information about his past service in

Attestation Form despite clear warning in Attestation Form against the same (Annexure R-3). Accordingly, his candidature was cancelled for the post of ACIO-II/Exe in IB in accordance with the guidelines and established principles issued by Government of India vide H.D.O.M. 20/58/45-Ests(S) dated 07.02.1947 (Annexure R-4).

6. In the rejoinder filed on behalf of the applicant, it has been stated that Annexure R-1 only mandates the appointing authority to verify the veracity of the caste certificate and nowhere mandates that the caste certificate submitted by the candidate must bear a date before the closing date for receipt of applications. The applicant also possesses the caste certificate dated 19.10.2011 i.e. much before the closing date of submissions of application form (Annexure A-9). The applicant had only produced the latest caste certificate when it was called for by the respondent department at the time of interview. The community of the applicant had been included in the OBC list much prior to the crucial date (Annexure A-9) and also the applicant never came in the ambit of Creamy Layer formula envisaged by the Government as is clear from Annexures A-9 and R-2. Further, it is not the case of the department that either the community of the applicant had been removed from OBC list or that applicant belongs to Creamy Layer. Thus, rejection of the applicant on this ground is totally arbitrary, misconceived and is not sustainable.

7. It is further stated that the applicant filed his application form on line in a cyber café and the option of "No" regarding previous employment was wrongly clicked due to heavy rush. At the time of

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interview, another form was manually filled by the applicant that had to be filled in the same manner as the online form. Hence, the applicant again mentioned "No" in the column regarding previous employment. However, the applicant had admitted his mistake by writing a letter to the Joint Director, Intelligence Bureau in this regard (Annexure A-10). The applicant was not going to gain anything by concealing information regarding his previous job. Reference has also been made to an employee by the name of Angrej Singh who appeared in the examination on 31.08.2008 and joined the department on 27.4.2009 and who was earlier working in RPF as Constable, but at the time of filling the form for the post of Security Assistant, IB, he had also clicked "No" option and did not reveal that he was already in a job. While Angrej Singh had been appointed in the department, the applicant was being treated in a discriminatory manner.

8. Affidavit dated 22.09.2015 was filed on behalf of the respondents regarding employment of two persons by the name of Angrej Singh in Intelligence Bureau. In response to this affidavit, applicant filed MA No. 060/01100/2015 on 09.10.2015 stating that he had wrongly given the name of Angrej Singh whereas the correct name of the person he had referred to was Angrej Kumar.

9. Another affidavit was thereafter filed on behalf of the respondents alongwith MA No. 060/01318/2015 stating as follows:-

"One Shri Angrej Kumar was recruited as Security Assistant/Exe. in IB on the basis of Exam 2007. He had not sought prior permission from his previous employer viz. Railway Protection Special Force and had tendered unconditional resignation before joining as Security Assistant in

IB. There is nothing under rules which debars us to accept joining of a person who has not sought prior permission of his previous employer. The loss he would have to incur in such cases is that his previous services would not be counted for the purpose of pension. But this is not the issue here. In the instant case, the petitioner suppressed the information about his past employment despite clear cut warning on the tope of the AF/SSQ as under:

“The furnishing of false information or suppression of any factual information in the Attestation form would be a disqualification, and is likely to render the candidate unfit for employment under the Government.”

10. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant narrated the background of the matter. He stated that the applicant did not fall under the Creamy Layer prescribed for OBCs. He pressed that the OBC certificate was required to be produced at the time of interview and it was not necessary that the same should be of a date earlier than when the applicant applied for the post of ACIO-II/Exe online. He also referred to the case of the employee Sh. Angrej Kumar who had been employed by the IB as Security Assistant who had also made a mistake by filling his application form online when he mentioned “No” in the column of previous employment. He stated that the applicant was working as Postal Assistant at the time when he filled his application form online and no advantage would accrue to the applicant for alleged concealment of the information as had been taken as a ground for cancellation of his candidature by the respondent department and pressed that the applicant should be treated in the same manner as Angrej Kumar and be offered employment.

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11. Learned counsel for the respondents referred to the date of issue of the OBC certificate produced by the applicant. He stated that the applicant was required to fulfill the eligibility criteria of being OBC at the time of filling his application form online. There was nothing to show that he did so as the certificate regarding being OBC produced by him at the time of interview was of a later date. Learned counsel also drew attention to the Employment Notice issued by the Intelligence Bureau published in the Employment News dated 21-27 July, 2013 wherein under para "How to apply" sub para (iii) read as follows:-

(iii) The detail instructions for online registration and other terms and conditions of the post can be seen on the website www.mha.nic.in before applying for the post."

He referred to application, guiding principles and criteria annexed as Annexure R-4 in this regard. The attestation form (Annexure R-3) also stated the following right at the beginning:

"The furnishing of false information or suppression of any factual information in the Attestation Form would be a disqualification, and is likely to render the candidate unfit for employment under the Government."

The applicant while filling this form online as well as manually, had recorded "No" in the column regarding "Occupation (if employed give designation and official address)". This information was found to be false. Hence, the candidature of the applicant was rejected. Regarding Angrej Kumar, learned counsel stated that, the respondent department was going to proceed against him as per the rules.

12. We have given our careful consideration to the matter. So far as the issue of validity of OBC Certificate submitted by the

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applicant is concerned, we are of the view that the application could not be rejected on the ground that the date of issue of the certificate was later than the date when the applicant filled his application form on line. On the last date for receipt of applications, the applicant was required to fulfill the eligibility criteria of being an OBC as he was applying for selection against this category. The date of the certificate that he furnished in this regard could even be a later date.

13. The second ground for rejection of the candidature of the applicant was the suppression of information while filling the application form online and the attestation form at the time of interview. The applicant had stated therein that he was not employed, while in actual fact, he was working as Postal Assistant. This is admitted by the applicant in his OA as well as the rejoinder whereby case has also been made out regarding discrimination faced by the applicant since one Sh. Angrej Kumar had been employed by the respondent department although he had similarly wrongly filled his online application form and attestation form. We are not inclined to accept arguments advanced by the learned counsel for the applicant that the applicant can gain nothing by concealment of information that he was working as Postal Assistant. Online application forms as well as attestation forms are to be filled accurately and it is clearly mentioned in the attestation form that furnishing of false information or suppression of any factual information would be a disqualification to render the applicant unfit for employment under the Government. Furnishing incorrect

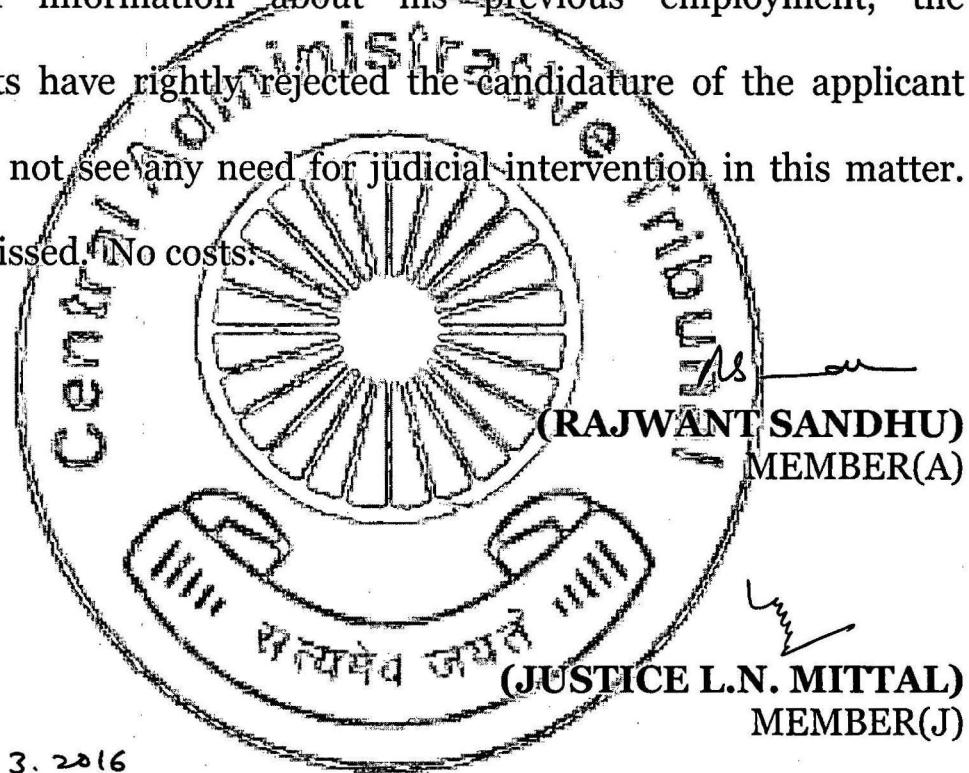
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information would also cast doubt on the integrity of the applicant/employee and cannot be brushed off lightly.

14. The respondents have also admitted that since it has come to the notice of the department that Sh. Angrej Kumar had suppressed factual information about his past employment, the department is going to proceed against him as per the rules. The applicant cannot claim negative equity on this account. Since he had filled his application form and attestation form inaccurately and suppressed information about his previous employment, the respondents have rightly rejected the candidature of the applicant and we do not see any need for judicial intervention in this matter.

OA is dismissed. No costs.



Dated: 2. 3. 2016

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