

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.207/2015

New Delhi, this the 12th day of September, 2016

Hon'ble Mr. P.K. Basu, Member (A)

Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

Brijesh Kumar Sahu, Aged about 27 years

S/o Shri Bhagavt Prasad Sahu,

Permanent R/o of Village : Garauli Kal

Post Nigahi, District Singhrauli,

Madhya Pradesh- 4869884.

Mob:-9311072705.

.....Applicant

(By Advocate: Mr. M.K. Bhardwaj)

Versus

1. The Commissioner of Police
PHQ, MSO Building
IP Estate, New Delhi-02
2. The Special Commissioner of Police
Recruitment Cell, Delhi-1100090
3. The Dy. Commissioner of Police
Recruitment Cell, NPL, Delhi-110009. Respondents

(By Advocate: Mr. K.M.Singh)

ORDER (ORAL)

Hon'ble Mr. P.K. Basu, Member (A)

The applicant had applied for the post of SI (Exe.) in Delhi police against the advertisement issued by the SSC in the year 2013. His candidature was cancelled because, while the applicant

had been accused in two cases in the past, he mentioned the details of only one in his application form, namely, FIR No. 353/2005 dated 23.08.2005 u/s 294,323,325,506, 34 IPC PS Waidhan. He failed to mention the second case i.e. FIR No. 726/2006 u/s 294, 506, 427, 34 IPC PS Waidhan. Both the cases were decided and the applicant acquitted by the Hon'ble Court vide judgments dated 16.06.2009 and 28.03.2007 respectively. [‘Brief facts’ of the respondents reply dated 15.05.2015.]

2. The case of the applicant is that these FIRs arose out of family disputes and at the time of the incidents he happened to be young around 17-19 years old. It is his case that at the time of filling up of the application form he only recalled about FIR No. 353/2005. It is further stated that he had obtained a certificate from the Local Thana (SHO) and the Local Thana had mentioned only FIR No. 353/2005 and also mentioned that he has been acquitted by Judicial Magistrate, Waidhan, Distt. Singruli, on the basis of compromise petition. This certificate issued by Officer in-Charge Baidhan, Distt. – Singruli, M.P. is dated 19.07.2013 (Annexure A-7)

3. It is stated by the learned counsel for the applicant that the applicant filled up only FIR No.353/2005 as he had forgotten about the other case of FIR No. 726/2006. Since, FIR No. 353/2005 only was also found mentioned in the SHOs certificate, it is stated that there was no concealment of facts and that the omission to mention FIR No. 726/2006 was a genuine mistake and was compounded by the fact that even the SHO certificate mentioned about only FIR No.353/2005.

4. Learned counsel for the respondents vehemently argued that the applicant was well aware about the other FIR while filling up the form that he had to give details of his involvement in FIR No. 726/2006 as well and tried to seek appointment in Delhi Police by deliberate concealment of his involvement in a criminal case and his prayer cannot be considered at all and the OA should be dismissed.

5. It is, further, argued that the department had obtained report about of his character and antecedents from the District Magistrate Singrauli, Madhya Pradesh. In that report, it was revealed that apart from FIR No. 353/2005 the applicant was also involved in another case, namely, FIR No. 726/2006. It is, further, argued that report of the District Magistrate would take

precedence over the other certificate issued by SHO of Waidhain Thana. It is also stated that the applicant was not a minor but an adult as he was more 19 years of age at the time FIR No. 726/2006 had been registered against him. Learned counsel for the applicant also vehemently stated that the advertisement was much before the certificate issued by the SHO dated 19.07.2013 and the applicant had already filled up the form before he got issued the certificate by the SHO.

6. We have gone through the facts of the case. The issue to be decided is whether there has been willful concealment of FIR No. 726/2006 or it is an inadvertent error. In the facts and circumstances of the case, it appears that the applicant approached the SHO Waidhan Thana for a certificate. Vide certificate dated 09.07.2013 the SHO gave a certificate in which mention was made only of FIR No. 353/2005. It was further mentioned that the applicant has been acquitted in this case after compromise between the parties. The SHO failed to mention the other case, namely, FIR No. 726/2006 based. This further confirmed to the applicant that the information furnished by him was right and that his memory had not failed him. Had the SHO mentioned about FIR No. 726/2006 and even then the applicant had not brought this to the notice of the respondents, a case of deceit would be suspected. Therefore, it does not seem that there

was any willful concealment. It is also an admitted fact that in both cases, the applicant has been acquitted way back in the year 2009 and 2007. Perhaps this is also a reason the applicant had forgotten about the second case.

7. We are of the view that the applicant had correctly remembered about the FIR No. 353/2005 but as admitted by him, he forgot the latter FIR No.726/2006. Further, on 19.07.2013 when the office –in-charge also issued certificate only about FIR No. 353/2005 he thought that his memory had served him right. There was no ground for him to suspect that he has wrongly filled up the form. In any case, the applicant was acquitted in both the cases and nothing against him survives anymore. In view of facts and circumstances of the case, we come to the conclusion that this was not a case of deliberate mischief to hoodwink the recruiting agency and get entry in Delhi Police but a case of genuine mistake. Therefore, the OA is allowed and the respondents are directed to issue appointment letter to the applicant fixing seniority and pay notionally from the date of his junior in the merit list. However, it is made clear salary etc will accrue to him from the date he actually joins duty and he will not be entitled to any arrears of pay.

8. We fix a time frame for implementation of our order as 90 days' from the date of receipt of a certified copy of this order.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member A)

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