

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2711/2014

This the 1st day of November, 2017

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

Vikas Kumar,
Ex-Constable of Delhi Police,
Aged about 38 years
S/o Late Sh. Harbir Singh
R/o VPO: Budhpur,
PS: Ramala, Distt. Bagpat, UP.

...Applicant

(By Advocate: Sh. Anil Singal)

Versus

1. Union of India
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Lt. Governor of Delhi,
Raj Bhawan, Delhi.
3. Commissioner of Police,
PHQ, IP Estate, New Delhi.
4. D.C.P. (Central District),
DCP Office, Darya Ganj, Delhi.

...Respondent

(By Advocate: Sh. Amit Anand)

ORDER (ORAL)

By Hon'ble Mr. V. Ajay Kumar, Member (J)

The applicant, an Ex. Constable in Delhi Police, filed the OA seeking the following reliefs:

“a) To call for the records for the case and quash and set aside the impugned Order dt. 23.4.97 (Annexure A-1), Order dt. 20.8.97 (Annexure A-2), Order dt. 5.5.2003 (Annexure A-3), Order dt. 1.2.2010 (Annexure A-4) and Order dt. 12.10.2013 (Annexure A-5) and direct the respondents to reinstate the applicant into service with all consequential benefits including seniority and arrears of pay.”

2. The brief facts as narrated in the OA are that the applicant was appointed as Constable in Delhi Police on 15.07.1996 and was put on probation for a period of two years but vide impugned order dated 23.04.1997 the applicant was dismissed from service under the proviso of Sub-Rule (i) of Rule 5 of CCS (Temporary Service) Rules, 1965. The representation made by the applicant against the said termination order was rejected by the respondents vide order dated 20.08.1997. Another representation of the applicant was also rejected by order dated 05.05.2003. One more representation of the applicant was also rejected on 01.02.2010. The mercy appeal for reinstatement of the applicant placing reliance on the case of one Jeetu Sheshrao, another Constable was also rejected by the respondents on 12.10.2013.

3. We have heard the learned counsel for the parties and perused the pleadings on record. Learned counsel for applicant strenuously submitted that the respondents have discriminated the applicant as they have reinstated the said Jeetu Sheshrao who was also terminated under the same circumstances under

which applicant was terminated but the benefit has not been given to the applicant. Learned counsel for the applicant further submitted that the termination order dated 23.04.1997 and all the subsequent orders rejecting the various representations of the applicant are against the settled principles of law.

4. Learned counsel appearing on behalf of the respondents mainly submits that the OA is liable to be dismissed on the ground of *res judicata* as the applicant has already suffered with a judicial order dated 30.10.2000 in OA No.2437/1997, filed by him for the same relief, i.e. questioning his termination dated 23.04.1997. Learned counsel for respondents further submits that there is no comparison between the facts of Constable Jeetu Sheshrao and that of the applicant and on this ground also OA is liable to be dismissed. Counsel for respondents further submits that since the orders of the respondents have already been upheld by this Tribunal in OA No.2437/1997 the contention with regard to the validity of the same cannot be raised by the applicant once again.

5. It is rightly submitted by the counsel for the respondents that the applicant's OA No.2437/1997 questioning the same termination order dated 23.04.1997 (Annexure R-1 to the counter) was dismissed by this Tribunal on 30.10.2000 after hearing both the sides and on merits. Hence, the claim of the applicant, in

challenging the same termination order dated 23.04.1997, cannot be entertained in this fresh OA once again. Further, counsel for respondents is also right in submitting that the facts of the present OA and that of Jeetu Sheshrao are completely different. The facts in the case of Jeetu Sheshrao are categorically mentioned by the Hon'ble High Court of Delhi in WP (C) no.5935/2016 dated 03.02.2017 which are as under:

"2. The petitioner had joined the Delhi Police as a Constable on 15th July, 1996. His services were terminated by the order dated 28th February, 1997, passed by the Additional Deputy Commissioner of Police, West District, for having concealed his involvement in FIR No.37/1992 registered under Sections 147/148/149/302/323/34 of the Indian Penal Code, 1860 at Police WP(C) No. 5935/2016 Page 2 of 15 Station Ambajogai, Maharashtra. The petitioner was acquitted in the said FIR vide judgment of the Additional Sessions Judge, Ambajogai dated 19th April, 1995. Against the aforesaid order of termination, the petitioner made a representation to the Appellate Authority- the Commissioner of Police on 20th April, 1997, to which he did not receive any response. The petitioner had then filed OA No.713/1998, which was disposed of by order dated 22nd April, 1998, directing the authorities to dispose of the petitioner's representation against the termination order by a speaking and reasoned order within one month. The petitioner submitted other representations on 17th June, 1998 and on 13th July, 1998. Consequent to the representations, the Additional Deputy Commissioner of Police, West District, New Delhi vide the order dated 24th August, 1998 issued directions for reinstatement of the petitioner as a temporary Constable and that the intervening period, i.e. from the date of termination of service on 28th February, 1997 till 24th August, 1998, would be treated as period spent on duty. Simultaneously the Commissioner of Police issued

Memorandum dated 20th July, 1998 which was followed by the Memorandum dated 17th August, 1998 from the Police HQ directing that departmental enquiry be initiated against the petitioner. By the order of the Additional DCP, West dated 27th January, 1999 departmental proceedings were initiated against the petitioner on account of misconduct, negligence and concealment of facts at the time of recruitment. Charge sheet was issued, enquiry officer appointed submitted his report and the disciplinary authority thereafter vide order dated 9th September, 1999, imposed penalty of withholding of two increments for two years without cumulative effect. The penalty order attained finality, as no appeal was preferred by the petitioner.”

6. When the services of Jeetu Sheshrao were once again terminated on the ground of making wrong declaration by concealing his involvement in a criminal case at the time of induction, he filed a case before the Hon'ble High Court of Delhi. In view of what is observed above, there is no comparison between the facts of applicant's case and that of Jeetu Sheshrao and hence the orders subsequent to the OA No.2437/1997 also cannot be interfered.

6. In the facts and circumstances and for the reasons mentioned above, OA is dismissed. No costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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