

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3363/2012

**Reserved On:25.07.2016
Pronounced On:29.07.2016**

HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR.V.N. GAUR, MEMBER (A)

Yashpal Singh Rajora (Roll No.1213721)
Constable (Ex.) in Delhi Police
PIS No.28950432
Aged about 37 years
S/o Shri Singh
R/o D-332, Street No.6,
Bhajan Pura,
Delhi-53.Applicant

(Argued by: Shri Anil Singal, Advocate)

Versus

Govt of NCT of Delhi through

1. Commissioner of Police,
PHQ, I.P. Estate,
New Delhi.
2. Dy. Commissioner of Police
(Establishment), PHQ,
I.P. Estate,
New Delhi.Respondents

(By Advocate : Ms. Rashmi Chopra)

ORDER

Justice M. S. Sullar, Member (J)

The contour of the facts, which needs a necessary mention, for the limited purpose to decide the sole controversy involved in the instant Original Application (OA), as claimed by applicant, Yashpal Singh Rajora S/o Shri Hari Singh, and emanating from the

record is that, while working on the post of Head Constable (HC) in Delhi Police, applied for the post SI (Exe.) and sought the benefit of OBC (Jat) reservation. This benefit was denied to him. He then filed **OA** bearing **No.1286/2008**, which was disposed of along another **OA** bearing **No.1285/2008**, filed by one Shri Sunil and respondents were directed to consider applicants for the post of SI (Exe.) in the OBC category and call them for interview (if necessary, provided he is otherwise qualified, as per rules) and to take further action depending upon their performance, by way of an order dated 06.05.2009 (Annexure A-2). This order was upheld by the Hon'ble High Court of Delhi, vide order dated 22.10.2010 in **Writ Petition (C) No.7421/2010** filed by the Chairman, SSC (Annexure A-3).

2. In compliance thereof, although the applicant was selected on the post of SI (Exe.) in OBC reserved category, but he submitted his application dated 14.10.2009 (Annexure A-5), mentioning therein, that due to domestic problem, he was unable to join as SI (Exe.) in Delhi Police and his candidature be cancelled. His request was accepted and candidature was cancelled by the competent authority, vide order dated 30.11.2009 (Annexure R-II)

3. Thereafter, he moved application/representation dated 04.08.2011 (Annexure A-8), seeking permission to withdraw his application dated 14.10.2009 (Annexure A-5) and to

allow him to join as SI (Exe.) in Delhi Police. The request of the applicant was declined, vide impugned order dated 10.10.2011 (Annexure A-1) by the competent authority.

4. Aggrieved thereby, the applicant has preferred the instant OA challenging the impugned order (Annexure A-1), invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985, on the following grounds:-

“(5.1) Because the applicant wrote application dated 14.10.2009 for cancellation of candidature as SE (Ex.) in Delhi Police under duress and on the dictation of the (sic) then ACP Recruitment Cell, NPL, Delhi since he was informed by ACP Recruitment Cell, NPL, Delhi that there is a complaint dated 10.10.2009 against him regarding “genuineness of his OBC Certificate” and he should make arrangement for getting Bail since a Criminal Case FIR is going to be registered against him if he insist upon to join as SI (Ex.) in Delhi Police. Therefore, the applicant is entitled to withdraw his application dated 14.10.2009 when his OBC certificate has been found and accepted to be genuine, the genuineness of which was the prime reason for writing application dated 14.10.2009 though mentioning domestic reason in the application.

(5.2) Because the applicant had informed the Delhi Police in his statement recorded on 10.03.2010 in the enquiry ordered by respondent No.1 and conducted by office of the DCP/Vigilance, that as to why he had written application dated 14.10.2009 as mentioned in Para 5.1.”

5. The applicant termed the impugned order as illegal, arbitrary, mala fide, unjustified and unreasonable. On the strength of aforesaid grounds, the applicant sought quashing of the impugned order in the manner indicated hereinabove.

6. The respondents refuted the claim of the applicant and filed the reply, wherein it was admitted that the applicant, while serving as HC had applied for the post of SI (Exe.). In pursuance of the order of a Co-ordinate Bench of this Tribunal, his candidature was considered in OBC reserved (Jat) category and was selected as such, subject to completion of codal formalities of medical examination and

obtaining vigilance report etc. vide letter No.28707/Rectt. Cell (AC-II)/PHQ dated 13.10.2009. Meanwhile, the applicant submitted application dated 14.10.2009 (Annexure R-I), stating therein that due to domestic problem, he is unable to join Delhi Police as SI and requested to cancel his candidature of the post of SI (Exe.).

7. According to the respondents, the case of cancellation of the candidature of the applicant, on his request, was examined in the Headquarters. He was also heard by the then DCP (East). On 13.11.2009, he again reiterated the contents of the application and stated that even he was thinking of resigning from the post of HC. Subsequently, his candidature for the post of SI was cancelled, vide order dated 30.11.2009 (Annexure R-II), by the competent authority.

8. Virtually acknowledging the factual matrix, and reiterating the validity of the impugned order (Annexure A-1), the respondents have completely denied all other allegations contained in the OA and prayed for its dismissal.

9. Controverting the pleadings in the reply and reiterating the grounds contained in the OA, the applicant has filed his rejoinder. That is how we are seized of the matter.

10. Having heard the learned counsel for the parties at length, having gone through the records with their valuable assistance and after bestowal of thoughts over the entire matter, we are of the firm view that there is no merit in the

instant OA and it deserves to be dismissed for the reasons mentioned herein below.

11. Ex-facie, the arguments of learned counsel that complainant filed a complaint dated 10.10.2009, against the applicant with regard to genuineness of his OBC Certificate, he got scared from ACP (Recruitment Cell), since he moved application dated 14.10.2009 (Annexure A-5) for cancellation of his candidature against the post of SI (Exe.) due to the pendency of the complaint, so he is entitled to join the duty as SI (Exe.) in Delhi Police, is not only devoid of merit but misplaced as well.

12. As is evident from the record, that in compliance of the direction contained in the order dated 06.05.2009 passed in OA No.1286/2008 (Annexure A-2), the applicant was selected for the post of SI (Exe.) in OBC (Jat) reserved category, subject to completion of all codal formalities, i.e., medical examination and vigilance report etc. vide letter dated 13.10.2009 by the competent authority (Annexure R-I).

13. Instead of joining, he himself moved an application dated 14.10.2009 (Annexure A-5) depicting therein, that due to his domestic problem, he was unable to join Delhi Police as SI (Exe.) and voluntarily requested for cancellation of his candidature. His request was accepted and candidature was cancelled by the competent authority, vide order dated 30.11.2009 (Annexure R-II).

14. Surprisingly enough, he kept quiet for about 2 years, when he moved application/representation dated 04.08.2011 (Annexure A-8), seeking permission to withdraw his application dated 14.10.2009 (Annexure A-5) and to allow him to rejoin on the post of SI (Exe.) in Delhi Police. The main ground pressed into service, by the applicant is that, he got scared from ACP (Recruitment Cell), who threatened to lodge a Criminal Case against him on the complaint dated 10.10.2009 regarding genuineness of the OBC Certificate. It is highly improbable to believe that a person, who is already working as HC in Delhi Police and even had filed **OA No.1826/2008** against Union of India, Lt. Governor of Delhi, Commissioner of Police etc., would be scared from ACP (Recruitment Cell). Even the applicant has miserably failed to substantiate this plea by placing on record, any cogent material, particularly when the respondents have stoutly denied the same.

15. Sequel, the fact that some complaint was filed against the applicant with regard to the genuineness of OBC Certificate, is not sufficient ground, much less cogent to explain the inaction and delay of about 2 years, when he moved application dated 04.08.2011 (Annexure A-8). Moreover, it is now well settled proposition of law that when a public servant has invited by his letter of resignation to determine/cancellation of his employment, his services stand

terminated from the date, on which his request for cancellation of the candidature was accepted by the appropriate authority, then it will not be open to public servant to withdraw his request at any subsequent stage.

16. Therefore, once it is proved on record that the applicant himself has voluntarily moved an application dated 14.10.2009 (Annexure A-5) to cancel his candidature and the appropriate authority has accepted his request and cancelled his candidature for the post of SI (Exe.) vide order dated 30.11.2009 (Annexure R-II), in that eventuality, the applicant is stooped from and cannot & should not be permitted to withdraw his request of cancellation of candidature after about 2 years in the wake of his application dated 04.08.2011 (Annexure A-8). If such requests are allowed on such unsubstantiated grounds, then there would be no end to it. Thus, we are of the firm view, that the applicant cannot legally be permitted to join as SI (Exe.) in Delhi Police, after such belated stage and the competent authority has rightly negated his plea vide impugned order dated 10.10.2011 (Annexure A-1).

17. No other point, worth consideration, is either urged or pressed for by the learned counsel for the parties.

18. In the light of aforesaid reasons, as there is no merit, the

OA is dismissed. However, the parties are left to bear their own costs.

(V.N. GAUR)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

Rakesh