

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

**OA-2084/2015**

**Reserved on : 05.07.2018.**

**Pronounced on : 30.07.2018.**

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

**Hon'ble Ms. Praveen Mahajan, Member (A)**

Const. Kirpal Singh,  
No.566/DAP, 2376/PCR,3076/Sec.  
(PIS No. 28912093)  
Aged around 47 years,  
R/o H.No. 415, Tuglakabad,  
P.S. Okhla, New Delhi.

.... Applicant

(through Sh. Harpreet Singh, Advocate)

Versus

1. The Commissioner of Police,  
Police Headquarters,  
MSO Building, ITO,  
New Delhi-110002.
2. The Joint Commissioner of Police,  
Security,  
Vijay Marg,  
New Delhi-110021.
3. The Addl. Commissioner of Police,  
Security,  
Vijay Marg,  
New Delhi-110021.
4. The Deputy Commissioner of Police,  
Security, New Delhi.

.... Respondents

(through Ms. Sangeeta Tomar, Advocate)

## O R D E R

### **Ms. Praveen Mahajan, Member (A)**

The applicant has filed the O.A. seeking the following reliefs:-

- “(i) To call for the records of the case.
- (ii) To quash and set aside the impugned orders dated 30.01.2015, 05.12.2013 passed by Respondent No.3 along with all consequential benefits, if any.
- (iii) to grant the cost and expenses of the OA in favour of the applicant.
- (iv) To grant any other relief as deemed just and proper by this Hon'ble Tribunal.”

2. Briefly stated, the facts of the current O.A. are that the applicant was selected and joined Delhi Police on 14.08.1994. A complaint against him was lodged alleging that the applicant was involved in a criminal case (FIR No. 340,90 u/s 325/34IPC P.S. Okhla Phase 1, Delhi.

3. On this basis, a regular departmental enquiry was initiated against the applicant by DCP Ist Bn. DAP dated 22.05.1995. On finalization of departmental enquiry, the applicant was dismissed from service on 01.05.1996 on the ground that he had filled up the attestation form for verification of his character & antecedents on 21.08.1990 and against the column regarding involvement/arrest in any criminal case, he had answered in the negative. The applicant preferred an appeal to the Appellate Authority, which was rejected vide order dated 21.08.1996. Aggrieved by the said order, the

applicant filed OA-2661/1996, which was dismissed on 28.04.2000. In the interregnum, the applicant was acquitted in the said criminal case by Hon'ble Metropolitan Magistrate, New Delhi vide order dated 07.12.2000. The applicant filed CWP No. 3084/2001 before the Hon'ble High Court of Delhi against the dismissal order passed by the Tribunal, which was disposed off on 21.09.2001 by directing the respondents to consider petitioner's reinstatement in service in the peculiar circumstances of the case more particularly in the light of petitioner's acquittal in the criminal case and pass appropriate orders within 4 months from receipt of this order.

4. The applicant was reinstated in service without prejudice to further departmental action to be taken against him. The applicant's case was reconsidered in the light of Hon'ble High Court judgment dated 21.09.2001 and he was awarded major punishment of forfeiture of one year approved service permanently vide order dated 11.12.2001.

5. The applicant submits that after a lapse of almost 12 years, he has been served with the impugned order dated 05.12.2013 passed by respondent No. 3 removing him from service. The applicant submitted an appeal dated 30.12.2013 to the competent authority. Finding no response, the applicant filed OA-4052/2014 before this Tribunal. The Tribunal vide order dated 24.11.2014 disposed off the

O.A. with a direction to the respondents to decide the appeal of the applicant. Vide the impugned order dated 30.01.2015, the appeal of the applicant was rejected, which is under challenge in this OA.

6. In their counter, the facts of the case have not been disputed by the respondents. However, they have referred to the orders of the Hon'ble Lt. Governor passed in the mercy petition filed by one Sh. Vikas Kumar, a former Constable in Delhi Police. In the said case, Sh. Vikas Kumar was terminated from service by DCP, Central District on 23.04.1997 under Rule 5(1) of CCS (Temporary Service) Rules, 1965 for concealment of facts at the time of his recruitment as Constable in Delhi Police. In the attestation form, the said Sh. Vikas Kumar had concealed the fact of his involvement in criminal case in FIR No. 122/94 under section 323/405/506/324 IPC PS Ramala, District Meerut, UP, which came to light only during the course of police verification. Accordingly, the competent authority terminated his services vide order dated 23.04.1997. After exhausting all the departmental channels/remedies Sh. Vikas Kumar filed a Mercy Petition before the Hon'ble Lt. Governor for considering his case to reinstate him in service. Reliance was placed by Sh. Vikas Kumar on another case of Constable Jeetu Shesherao, whose services were terminated by Delhi Police under similar circumstances but who was subsequently reinstated in service by Commissioner of Police, Delhi. In his order dated 04.09.2002, the Hon'ble Lt. Governor observed that:-

“This is not being dealt as a case of delinquency by a serving official as the said offence pertains to the stage of recruitment. As such, the Delhi Police (Punishment & Appeal) Rules, 1980 are not attracted. The question of validity or otherwise of Rule-25(B) of the said rules also is not germane to the case. So, the orders of the Central Administrative Tribunal striking down rule 25-B in specific cases has no bearing on the issue which essentially is to uphold the sanctity, fairness and consistency of the recruitment process, especially of disciplined and uniformed force and to deal effectively and objectively with any violation which may threaten to upset or vitiate it.”

It was further observed that:-

“....The case of Shri Sheshrao and two other similar cases wherein terminated had ensued but subsequently the persons were reportedly reinstated. It is quite apparent that the default of Jeetu Sheshrao therefore has far more serious implications for the well laid down recruitment procedure and it would certainly be unfair and against the public interest to condone such serious aberrations. The then Commissioner of Police has evidently made an error of Judgment while considering the matter and has shown leniency not deserved in this case, especially in view of the consistent view, the needs of consistency, fairness and transparency in the recruitment procedure and the public interest will be adequately served if, like all other similar defaulters, Shri Jeetu Sheshrao is also removed from service.”

The respondents state that order dated 04.09.2002 of the Hon'ble Lt. Governor was conveyed by Govt. of NCT of Delhi on 19.03.2013 and received in Police Headquarters on 10.05.2013.

7. In pursuance of this order, it was decided that cases of all the officers, who had concealed the fact of their involvement in criminal cases should be reviewed. Hence in pursuance of Delhi Headquarter's directions, the earlier order of punishment awarded to the applicant of one year approved service, forfeited permanently by the then DCP/1st Bn. DAP on 11.12.2001, was withdrawn by the Disciplinary Authority and it was ordered to remove the applicant from service on 05.12.2013. The appeal

submitted by the applicant against the said punishment was considered and rejected by the Appellate Authority on 30.01.2015.

8. We have gone through the facts of the case and carefully perused the record as well as the rival submissions made by both the parties.

8.1 It is a fact that the applicant suppressed the information regarding his involvement in a criminal case at the time of filling up the application form. The plea taken by the applicant that similar orders of termination have been withdrawn in case of others is not relevant nor does it absolve the applicant from his willful suppression of facts. If a complaint had not been filed by Sh. Dhanna Ram, the fact of applicant's involvement/arrest would not have come to the notice of the department. The attestation form clearly questions the applicant about the criminal case, (if any) irrespective of the fact whether these are pending, or, finalized, against a candidate. Hence, it was mandatory for the applicant to apprise the department of this fact, if not initially then at least at the time of his appointment on 07.08.1991. It is clearly a case of deliberate concealment of facts, and his appointment as a Constable has been obtained fraudulently as otherwise he would have been disqualified on this ground alone.

9. The Hon'ble Lt. Governor in his order dated 04.09.2002 has specifically prescribed that cases of the employees who concealed

the fact of their involvement in criminal cases and have been taken back in service, either on account of the orders of the Disciplinary Authority or through Court orders, their cases need to be revisited. The matter was examined by the respondents in Police Headquarter in consultation with the Legal Department and orders of the Hon'ble Lt. Governor have reportedly been implemented uniformly in respect of all such personnel, who concealed their involvement in criminal cases by withdrawing the earlier punishments inflicted upon them. Accordingly, the earlier order of punishment of one year approved service of the applicant forfeited permanently vide order dated 11.12.2001 has been withdrawn by the Disciplinary Authority and the applicant has been ordered to be removed from service vide order dated 05.12.2013. The same has further been confirmed vide the impugned order dated 30.01.2015 of the Appellate Authority.

10. In view of the aforementioned facts of the case we feel that there is no room for the Tribunal to interfere with the impugned orders. The citations relied upon by the applicant are clearly distinguishable from the facts of the case and do not come to the aid of the applicant. Thus, the O.A. is dismissed being devoid of merit. No costs.

**(Praveen Mahajan)**  
**Member (A)**

**(V. Ajay Kumar)**  
**Member (J)**

/vinita/

