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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1725/2003

New Delhi, this the 10th day of February, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri S.K. Naik, Member(A)

Ex-Constable Vikas Kumar No.1351/W  
r/o Village Nanu Fatehpur  
PO Dhaulari, PS Jani, Distt.Meerut .. Applicant

(Shri Arvind Singh, Advocate)

versus

1. NCT of Delhi, through  
it's Chief Secretary through  
Joint Commissioner of Police/  
Southern Range, Police Hqrs.  
IP Estate, New Delhi
2. Deputy Commissioner of Police  
West District at Police Station  
Rajouri Garden, New Delhi
3. Inspector Rajinder Parshad  
Addl. SHO of Police Station  
Patel Nagar, New Delhi through  
DCP/Hqrs. Police Hqr. IP Estate  
New Delhi .. Respondents

(Shri Rajan Sharma, through Shri Ashwani Bhardwaj,  
proxy counsel)

ORDER(oral)

Shri S.K. Naik

By virtue of the present application, applicant has challenged the order dated 11.10.2001 by which he has been dismissed from service and order dated 11.12.2002 by which his appeal against the order of dismissal has been rejected.

2. The relevant facts in brief are that a complaint from one Shri Rattan Singh was received in the office of Respondent on 26.4.2000 in which he had alleged that the applicant has passed high school examination from Shri Gandhi Samarak Janta Inter College, Patla, Ghaziabad against Roll No.0081190 in the year 1984 wherein his date

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of birth was given as 1.4.1969 but the applicant got himself enrolled as Constable in Delhi Police by producing forged documents/certificates showing his date of birth as 2.1.1971. The complainant had also enclosed photocopy of character certificate issued by the same college bearing No.7939 and copies of High School and Intermediate Certificates holding Roll Nos.0081190 and 073262 respectively in which the date of birth has been mentioned as 2.1.1971.

3. The respondents enquired into the matter. The Asstt. Secretary, Madhyamik Shiksha Parishad, Meerut (MSPM, for short) vide his letter dated 28.8.1999 had clearly reported that both the certificates supra were not issued by the Board. The character certificate of the applicant sent by the complainant bearing date of birth as 1.4.1969 was found to be genuine but the applicant had not submitted this certificate at the time of his enrolment but has submitted a forged educational certificate showing his date of birth as 1.4.1971. Subsequently, the applicant had withdrawn his original educational certificates from the Character Roll on 22.2.1995 on the pretext of appearing in BA-IIInd year examination. However, from the photocopies of educational certificates appended in his character roll it was clear that he had produced forged educational certificates of High School and Intermediate showing false date of birth i.e. 2.1.1971 at the time of recruitment/appointment in Delhi Police as constable.

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4. Thereafter, a Departmental Enquiry was ordered against the applicant vide office order dated 20.7.2000 and he was placed under suspension by order dated 22.5.2001. On his representation on 12.10.2000, the applicant was given all relied upon documents. During the course of DE, the Principal of Shri Gandhi Samarak Janta Inter College, Patla (SGSJIC) sent two letters dated 13.2.2001 and 17.5.2001 to the Enquiry Officer by which it had been established that the High School and Intermediate Certificates furnished by the applicant at the time of his enrolment are forged and were not issued by the said School. By letter dated 13.2.2001, it was made clear that the applicant was issued character certificate against Regn.No.7939 dated 6.4.1999 in which it is mentioned that his date of birth is 1.4.1969 and he studied in that school for 5 years and passed High School in the year 1984 against Roll No.81190. Applicant had submitted an Intermediate Certificate purportedly issued from S.K. Inter College, Bailani, Meerut whereas he had only passed 10th class from Shri Gandhi Samarak Janta Inter College, Patla. By letter dated 17.5.2001 the Principal of the said School sent certified copies of the relevant documents in support. The Enquiry Officer submitted his report concluding therein that the intention of the applicant was malafide and that is why he did not deposit the original certificates which were withdrawn by him and that the charge against the applicant was proved. The disciplinary authority after carefully going through the findings of EO, defence statement/representation of the applicant as well as record/evidence available on DE and also after hearing the applicant in the OR, dismissed him from service by

for



order dated 11.10.2001. Applicant's appeal against the punishment order was also rejected by the appellate authority vide its order dated 11.12.2002.

5. In order to appreciate the facts of the case in proper perspective, it would be of advantage to recall that the applicant had earlier filed OA 2163/2000 which was decided on 20.10.2000 with the direction to the respondents to dispose of the representation of the applicant in accordance with rules and instructions under intimation to him within two months. The main relief asked was for supply of certain documents. When the respondents were in the process of supplying the documents, applicant filed CP No.259/2001 on 15.5.2001 which was directed against the disciplinary authority and the EO. But the same was dropped by the Tribunal vide order dated 17.4.2002 as the respondents had supplied him the relevant documents as per the direction in OA 2163/2000. Not content therewith, applicant had filed RA 128/2002 on 17.5.2002 which was also dismissed on 30.12.2002.

6. In the series of litigation, the applicant had sought to delay the whole proceedings on the pretext of respondents not supplying him the relevant documents, while the respondents in their counter have emphatically stated that the same were supplied to the applicant.

7. At the time of arguments before us, the counsel for the applicant has challenged the impugned orders primarily on two counts in which firstly he has again raised the question of respondents not having supplied

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count

the documents asked for by him and secondly that relevant witnesses cited by them were not examined. The counsel, therefore, contends that the enquiry report and subsequent orders get vitiated on these grounds. In support of his contention, he has stated that while the respondents have initiated action against the applicant on the basis of complaint of Shri Rattan Singh, he had not been produced or examined. Secondly, the Asstt. Secretary, MSPM whose letter dated 28.8.1999 has been relied upon by the respondents had also not been examined. Similarly the Principal, SISJIC, Patla had also not been examined by the respondents to justify the correctness of the letters received from him. Similarly copies of original certificates asked for were also not supplied to him despite clear orders of the Tribunal. The case of the applicant, therefore, has been severely prejudiced and warrants the intervention of the Tribunal, the counsel has argued.

8. The counsel for the respondents on the other hand has submitted that in the case in hand, it is the applicant who himself had submitted a set of documents i.e. matriculation certificate and character certificate in which his date of birth was indicated as 2.1.71. He had subsequently on the pretext of appearing in BA-IIInd year examination withdrawn the same and despite specific order of the EO did not resubmit them. When the complaint was received that he had submitted forged documents with the date of birth written as 2.1.71 to enable him to get recruited that the misconduct came to light. The counsel has contended that the respondents had been asking him to come with proof of his date of birth being 2.1.71 as was

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indicated at the time of enrolment. The applicant had been shying away from producing any evidence in the matter and had been delaying the process of enquiry on one pretext or the other by filing series of petitions.

9. Finally when the enquiry was conducted, conclusive evidence in the form of reply was received from the Principal of the school where the applicant studied for more than five years and also from the Asstt. Secretary, MSPM corroborating that the applicant was born on 1.4.69 and not on 2.1.71. The reason as to why the Principal, though called for evidence did not participate in the proceedings is fairly clear from his reply dated 17.5.2001 at page 223 of the paper book as he had sent the relevant documents duly verified and attested by him. Since the EO was satisfied with the standard proof of the documents, the disciplinary proceedings cannot be said to have been vitiated on that count. Similarly the absence of the complainant from the enquiry proceedings would make no material difference to its outcome as the EO tried his best to procure the presence of the complainant who did not appear. He was formally dropped by the EO from the list of PWs and the applicant also was informed about it. In so far as non-supply of copies of documents including certificates asked for by the applicant vide his letter dated 30.11.2000 addressed to Joint CP is concerned, all the documents except which the applicant had himself withdrawn earlier were given to him on 9.1.2001. No prejudice, therefore, has been caused and the applicant is trying to make out a case without any basis, the counsel has contended.

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10. We have carefully considered the contentions raised by the learned counsel for the parties and also the records of the case.

11. The first and foremost ground on which the learned counsel for the applicant assails the action of the respondents pertains to non-supply of relevant documents. We, however, find that the same has no legs to stand, especially in the background of series of litigation about which a reference has already been made earlier. We find that pursuant to the directions of the Tribunal, respondents have supplied all the relevant documents asked for <sup>by</sup> him, including a copy of the statement recorded in the vigilance enquiry except copies of certificates which the applicant had earlier withdrawn from the office of the respondents on the plea of appearing in BA-IIInd year examination. Obviously, asking for copies of documents which were very much in the possession of the applicant could not be made a ground for finding fault with the enquiry.

12. The other contention raised by the learned counsel for the applicant pertains to EO not having examined the complainant Rattan Singh in this case. He has also pointed out that the Principal of the School and the Asstt. Secretary of MSPM whose documents have been relied upon were also not examined. Since the complainant was not examined, the counsel contended that, there was no reason for the respondents to proceed with the enquiry. Further, in the absence of the Principal of the School and Asstt. Secretary, MSPM, letters/ certificates produced by them could not be said to have

be said

been proved and, therefore, EO could not have relied on them. We do not find this contention tenable. Perusal of the records clearly indicates that EO made repeated attempts to procure the attendance of these witnesses. However, when he found that there was sufficient evidence to prove the allegation and the documents were proved/accepted by the available PWs examined during the enquiry proceedings, he took a conscious decision to drop the other PWs, including the complainant, after obtaining the prior approval of the disciplinary authority and also duly informing the complainant about it.

13. In our view, the enquiry proceedings cannot be said to have been vitiated on this ground. In fact we find from the records that pursuant to the directions of the Tribunal, the applicant was provided with copies of relevant documents. He has been permitted to engage defence assistant. He has examined the PWs in the disciplinary proceedings. A copy of the enquiry report was also given to him. He has submitted his representation thereto. Disciplinary and appellate authorities have taken this into consideration and passed detailed and speaking orders. Thus the entire procedure has been complied with and it cannot be said that principle of natural justice has not been followed.

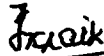
14. We also find that during the entire course of the proceedings, applicant had not given any explanation as to why he had failed to return the original certificates submitted at the time of recruitment nor has he denied that his date of birth is 1.4.69. The very conduct of the applicant in this case where he has neither denied

Denial



his date of birth as 1.4.69 nor asserted himself that he was born on 2.1.71 lends support to the finding of EO that the applicant has indeed produced forged documents.

15. In the totality of the circumstances, we find that the application is totally bereft of any merit and is accordingly dismissed, with no order as to costs.



(S.K. Naik)  
Member(A)



(V.S. Aggarwal)  
Chairman

/gtv/