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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2735/2003

Thursday, this the 13th day of November, 2003

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

Shri Nand Lal Meena
s/o Shri Chhote Lal Meena
r/o Kala Kuan
Behind Dr. Devyani ki Kothi (Alwar)
Distt. Alwar (Rajasthan)

. Applicant
(By Advocates: Shri S.N.Pandey & Shri Rahul Garg)

VERSUS

1. Union of India
through Secretary
Ministry of Home Affairs
North Block, New Delhi
2. The Commissioner of Police
Police Headquarter
JP Estate, New Delhi

. Respondents

O R D E R (ORAL)

Justice V.S. Aggarwal:

The applicant in pursuance of the Advertisement of April, 1998 had applied for the post of Constable. He was successful in physical verification, written test and we are told that even qualified in the interview as well as in the medical examination.

2. It is not in dispute that the applicant had faced a trial in a court of competent jurisdiction pertaining to offences punishable under Sections 323, 148, 149 and 525 of Indian Penal Code. The applicant had been acquitted.

3. However, in the application form for the post referred to above, he had not mentioned this fact that he was involved in a case in which he had since been

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acquitted on 28.4.2000. When this fact came to the knowledge of the respondents, they had issued a Memo, while considering the reply of the applicant, the respondents recorded the finding that he is not suitable for appointment in Delhi Police. It has been recorded:-

"Aggrieved by the above mentioned decision of Deputy Commissioner of Police, IT BN DAP, Delhi, you have filed representation dated 10.7.2002 to the Commissioner of Police, Delhi. The Commissioner of Police, Delhi had constituted a committee consisting of Joint Commissioner of Police, Headquarters, Delhi as Chairman and Additional Commissioners of Police, General Administration and Security, Delhi as Members respectively to examine the cases of concealment of facts and criminal involvements by the candidates selected for the different posts in Delhi Police. Accordingly, the Committee examined the case, keeping in view various instructions issued on the subject and judgement of Hon'ble Supreme Court of India dated 4.10.96 in Civil Appeal No.13231 of 1996 (Arising out of SLP (C) No.5340 of 1996)-DAD VS Sushil Kumar. After examination of all the relevant records, the Committee found that you have concealed the facts of your involvement in a Criminal Case in the relevant column of Application Form as well as Attestation Form. Hence, the Committee recommended that you are not eligible to join the department as Constable (Exe)."

In view of the above, the Commissioner of Police, Delhi agreeing with the recommendation of the Committee has found that you are not suitable for appointment in Delhi Police as you have concealed the facts of your involvement in the criminal case during the process of recruitment and tried to seek appointment as Constable (Exe). in Delhi Police by adopting deceitful means. Therefore, the Commissioner of Police, Delhi has rejected your representation."

4. By virtue of the present application, the applicant assails the said orders contending:

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- a) he has been acquitted and, therefore, is not disqualified to be appointed as Constable; and
- b) similar other cases of Constables had been considered and they were so appointed.

5. We have considered the said submissions. We have no hesitation in holding that a person who has been acquitted by a court of competent jurisdiction is not disqualified. The controversy herein does not appear to be of disqualification. The authorities have found that the applicant is not suitable for appointment. Suitability has to be seen by the authorities keeping in view the character antecedents of the concerned person and all other factors. In the present case, if a person has suppressed facts from the authorities and the Department deem it inappropriate to appoint him, there is no illegality in the action taken by the respondents.

6. As regards the second aspect that similar other persons with such record had been appointed, at this stage, we need only to mention that each case has to be examined on its own merit. If in that particular case(s), the explanation was found to be satisfactory, then it cannot be taken as a precedent that in all cases persons who suppressed facts in the application form, should be appointed.

7. Resultantly, petition being without merit fails and is dismissed in limine

Naik
(S.K. Naik)
Member (A)

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(V.S. Aggarwal)
Chairman