

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

OA No.895/2016

Order Reserved on: 17.10.2019
Order Pronounced on: 21.11.2019

Hon'ble Mr. Ashish Kalia, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

Pappu Lal Meena (Aged about 40 years)
S/o Sh. Babu Lal Meena,
Post Driver, Group C,
C/o Sh. Deepak Kumar,
H.No.85/4, 4th Floor,
Street No.1, East Moti Bagh,
Sarai Rohilla (Near Police Station)
Delhi-110035 - Applicant

(By Advocate: Mr. Jagdish Chander Kundlia)

Versus

Delhi Transport Corporation,
Through its Chairman-cum-Managing Director,
Hqrs. IP Estate, New Delhi - Respondent

(By Advocate: Sh. Satpal Singh)

ORDER

This Original Application (OA) has been filed by the applicant claiming the following reliefs:-

- “i) Quash the orders of the respondent dated 17.7.2013 of the termination of the services of the applicant and dated nil and conveyed vide order dated 19.06.2015 rejecting the appeal of the applicant and direct the respondent to reinstate the applicant in service with all consequential benefits; and
- ii) All other consequential benefits be granted to applicant.

- iii) Any other relief which the Hon'ble Tribunal may deem fit and proper in the circumstances of the case may also be passed in favour of the applicant.
- iv) Cost of the litigation/s be awarded in favour of the applicant and against the respondent."

2. The brief facts of the case are the applicant was selected for the post of Driver w.e.f. 23.04.2011. The applicant submitted duly filled CVR forms to the respondent required under the Recruitment Rules. The applicant has not disclosed the information in regard to a criminal case pending against him and submitted in the column 12 of the said CVR forms as 'no". The stand of the applicant is that a false case was reported against him as he was never involved in any case of extortion and rioting. The applicant further submitted that even there was nothing in his vague memory regarding pendency of criminal case in the year 2000 against him on whether he has been summoned either by any Court or Police Department while he filed said Application (CVR) forms in the year 2012. The applicant has bonafidely submitted that he has not concealed any information whatever and his services were terminated by the respondent under Section 9(a)(i) and S-10 of the DRTA Regulations, 1952 w.e.f. 17.07.2013 by which it is stated that the explanation submitted by the applicant was found satisfactory. The

applicant has also filed mercy appeal against his termination order and the same has also not found favour. He was compelled to file the OA No. 2983/2014 against the termination order. This Tribunal has disposed of the OA with direction to the applicant to file a fresh appeal and the respondent was directed to dispose of the same within a period of 30 days. The appellate authority has rejected the same vide its order dated 18.06.2015. Lastly, the applicant submitted that he was acquitted from the criminal case u/S 147/384 IPC.

3. To the contrary, the respondent in his reply has submitted that the applicant has no locus standi to file the present OA before this Tribunal in view of the terms and conditions of the appointment stipulated in the appointment letter and his services were terminated under Clause 9(a)(1) w.e.f. 17.07.2013. At the time of filling of the Application(CVR) form, verification was done and the respondent had received information from District Magistrate Dausa (Rajasthan) vide No.7663 dated 27.08.2012 that the applicant was involved in criminal case which was pending in the concerned Court. Then it was discovered that the applicant had concealed the said information in the CVR form. A show cause notice was issued to him and reply submitted by him is not found

satisfactory and ultimately the proposed punishment of termination was confirmed. In support of their case, the respondent has cited the case of Delhi Administration through its Chief Secretary & Ors. v. Sushil Kumar (1996)11SCC 605; Suresh Pathrella v. Oriental Bank of Commerce (2006)10 SCC 5702; Fuljit Kaur etc. v. State of Punjab etc. (2010)11SC C 455; K. Venkateshwarlu vs. State of Andhra Pradesh (2012)8 SCC 73, Deputy Inspector General of Police & Anr. v. S. Sumuthiram (2013)1 SCC 598; Chandigarh Administration & Anr. v. Jagjit Singh & Anr. AIR 1995 SC 705 and Maharaj Krishan Bhatt & Anr. v. State of Jammu & Kashmir & Ors. (2008)9 SCC 24.

4. Heard the counsel for the parties at length.

5. The question raised by the applicant in the present Original Application is whether his services could be terminated on concealment of the information regarding a criminal case pending against him in the CVR forms. During the course of the arguments, the learned counsel for the applicant has relied upon a judgment passed by the Apex Court in the matter of **Avtar Singh vs. Union of India & Anr**, (2016)8 SCC 471 in which it has been held as under:-

“21. The verification of antecedents is necessary to find out fitness of incumbent, in the process if a declarant is found to be of good moral character on due verification of antecedents, merely by suppression

of involvement in trivial offence which was not pending on date of filling attestation form, whether he may be deprived of employment? There may be case of involving moral turpitude/serious offence in which employee has been acquitted but due to technical reasons or giving benefit of doubt. There may be situation when person has been convicted of an offence before filling verification form or case is pending and information regarding it has been suppressed, whether employer should wait till outcome of pending criminal case to take a decision or in case when action has been initiated there is already conclusion of criminal case resulting in conviction/acquittal as the case may be. The situation may arise for consideration of various aspects in a case where disclosure has been made truthfully of required information, then also authority is required to consider and verify fitness for appointment. **Similarly in case of suppression also, if in the process of verification of information, certain information comes to notice then also employer is required to take a decision considering various aspects before holding incumbent as unfit. If on verification of antecedents a person is found fit at the same time authority has to consider effect of suppression of a fact that he was tried for trivial offence which does not render him unfit, what importance to be attached to such non-disclosure. Can there be single yardstick to deal with all kind of cases?**

24. However, in a criminal case incumbent has not been acquitted and case is pending trial, employer may well be justified in not appointing such an incumbent or in terminating the services as conviction ultimately may render him unsuitable for job and employer is not supposed to wait till outcome of criminal case. In such a case non disclosure or submitting false information would assume significance and that by itself may be ground for employer to cancel candidature or to terminate services.

(emphasis supplied)”

6. Considering the judgment cited by the applicant, the Apex Court is of the opinion that it is the discretionary

powers vested with the employer to take call to ascertain the character and antecedents of the candidate so as to the suitability for the post.

7. In the instant case, the applicant was involved in an FIR under Section 147/384 IPC relating to rioting and extortion of money which has not been proved against him by the competent court of law. It is admitted by the applicant that in his CVR form, he filled the column relating to FIR and ongoing cases, in the negative. Sections 147/384 IPC relating to rioting and extortion of money are not petty offences, but they come in the nature of serious offences. The applicant was under probation, which means that his services can be terminated any time. Despite that, he was given a show cause notice and personal hearing. Mercy appeal was also filed by him. Therefore, adequate opportunity was given, after which the order of termination was passed and subsequently sustained. In **Avtar Singh v. Union of India & others**, (2016) 8 SCC 471, the Hon'ble Apex Court has considered various situations and very fairly laid down certain principles. One of the principles is that long delay in the matter can be held to be in favour of the applicant. However, in the matter in question, there was no delay on the part of the respondents. The facts of the case are that as soon as it came to the notice of the respondent, they took action giving the applicant an opportunity to defend himself. The applicant could not prove

that he had no knowledge of the cases against him. Thereafter, the respondents terminated the services of the applicant.

8. The another fact that the Hon'ble Apex Court has kept in mind is what would have been the impact of disclosure on the appointment of the applicant. In this case, the disclosure and the subsequent fact that he has not yet been acquitted in the concerned cases, would definitely have led to refusal of appointment. Paragraph 24 of the said ruling reads:

“24. No doubt about it that once verification form requires certain information to be furnished, declarant is duty bound to furnish it correctly and any suppression of material facts or submitting false information, may by itself lead to termination of his services or cancellation of candidature in an appropriate case. However, in a criminal case incumbent has not been acquitted and case is pending trial, employer may well be justified in not appointing such an incumbent or in terminating the services as conviction ultimately may render him unsuitable for job and employer is not supposed to wait till outcome of criminal case. In such a case non disclosure or submitting false information would assume significance and that by itself may be ground for employer to cancel candidature or to terminate services.”

In the above ruling, the Hon'ble Apex Court has held that cheating, misappropriation, etc., involvement of moral turpitude and extortion would definitely come in this category, thereby it can, by no means, be classified as a petty offence.

9. Therefore, in view of the above, we find no merit in the present OA and the OA is liable to be dismissed. Ordered accordingly. No order as to costs.

(Aradhana Johri)
Member (A)

(Ashish Kalia)
Member (J)

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