

(2012) 01 DEL CK 0432
In the Delhi High Court
Case No : WP (C) 6518 of 2011

Commissioner of Police

APPELLANT

Vs

Sh. Ranvir Singh

RESPONDENT

Date of Decision : 20-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0432

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : V.K.Tandon, for the Appellant; counsel for the respondent, for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sahai Endlaw

1. The petition impugns the order dated 25.05.2011 of the Central Administrative Tribunal, New Delhi allowing the O.A. No.3509/2010 preferred by the respondent and directing the petitioner to treat the respondent as a validly selected candidate and offer him appointment to the post of sub-inspector(EXE) Male. Notice of this petition was issued and the operation of the order stayed. The petitioner, as directed has produced the record relating to recruitment of the respondent. The counsels have been heard.

2. The respondent had applied for the said post in the recruitment drive of the year 2007 and was provisionally selected subject to verification of character and antecedent, medical fitness and final checking of documents etc. After he had filled up the application form and the attestation form, he was accused of offences under Sections 332/353/186/285/506 r/w 34 of the IPC and 25/54/59 Arms Act in FIR No.116/2008 dated 30.05.2008 of Police Station Sadar Narwana, District Jind, Haryana. Upon discovery of the said fact during verification, the case of the respondent was put up before the screening committee constituted by the commissioner of police. In the interregnum, the Court of the Judicial

Magistrate, Narwana vide judgment dated 15th June, 2009 acquitted the respondent, giving him benefit of doubt. The Screening committee of the petitioner however considering the gravity of the offences with which the respondent was charged and in the light of observations in the judgment (supra) did not find the respondent suitable for the post and the petitioner vide communication dated 8th October, 2009 cancelled the candidature of the respondent.

3. The respondent earlier preferred an O.A. No.2989/2009 impugning such cancellation of his candidature and which O.A. was disposed of vide order dated 19.03.2010 remitting the case to the petitioner to reconsider the same taking notice of the circumstance of acquittal of the petitioner of all the charges.

4. The petitioner again considered the case of the respondent and vide order dated 10th June, 2010 again found the respondent not suitable for appointment in Delhi Police. OA.No.3509/2010 (supra) was filed by the respondent impugning the said order and which OA has been allowed as aforesaid by the Tribunal vide orders impugned in this petition. The Tribunal has primarily relied on Commr. of Police and Others Vs. Sandeep Kumar, .

5. This Bench has also, in several other cases coming before us been consistently following the dicta of the Supreme Court in Sandeep Kumar (supra). Sandeep Kumar had concealed his involvement in a criminal case u/s 325/34 IPC and which case had also ended in an acquittal on compromise. The Supreme Court held that Sandeep Kumar at the time of the FIR was about 20 years of age; at that age, young people often commit indiscretions and such indiscretions can often be condoned; youth will be youth; they are not expected to behave in as mature a manner as older people and minor indiscretions made by young people should be condoned rather than to brand them as criminals for the rest of their lives. Relying upon Morris Vs. Crown Office (1970) 2 Q.B. 114, it was held that the non-mentioning of involvement in a criminal case was out of fear inasmuch as if the same had been disclosed, he would have been automatically disqualified. The Supreme Court accordingly held cancellation of provisional selection of Sandeep Kumar to be illegal.

6. However in the present case cancellation of candidature of the respondent is not merely because of involvement in a criminal case (in which he was ultimately acquitted) but the case of the respondent was examined by the Screening Committee of the petitioner, not once but twice. The said Screening Committee has given detailed reasons in its order dated 10th June, 2010 (supra) for finding the respondent unsuitable for appointment in Delhi Police. It is apposite to quote the said order as under

ORDER Shri Ranvir Singh s/o Shri Nafe Singh (Roll No.415007) applied for the post of Sub-Inspector (Exe.) - Male in Delhi Police during the recruitment held in the year 2007. He was put through all the tests required for the post and declared provisionally selected subject to satisfactory police verification report of

his character and antecedents etc. His character and antecedents report revealed that he was involved in a criminal case FIR No.116/08 dated 30.05.2008 u/s 332/353/186/285/506 r/w 34 IPC and 25/54/59 Arms Act, PS Sadar, Narwana, Jind, Haryana.

The Screening Committee of PHQ comprising Shri Qamar Ahmed, Jt. C.P./HdQRS. Chairman, Shri M.N. Tiwari, DCP/Vigilance, Member and Shri L.C. Jain, LA to CP/Delhi Member met on 18.09.2009 and examined the case of Shri Ranvir Singh to assess his suitability for the post of Sub-Inspector (Exe.) due to his involvement in above mentioned criminal case. The Committee considered the facts of the case, judgment of the Hon'ble Court, gravity of offence, involvement and role of the candidate in this case. The judgment of the Hon'ble Supreme Court of India dated 04.10.1996 in Civil Appeal No.13231 of 1996 (arising out of SLP(C) No.5340 of 1996-DAD Vs. Sushil Kumar) was also kept in view.

The brief facts of the case are that Shri Ranvir Singh (Roll No.415007) was involved in case FIR No.116/2008 u/s 332/353/285/186/506 r/w 34 IPC and 25/54/59 Arms Act PS Sadar, Narwana, Haryana dated 30.05.2008. The case was registered against three persons namely Shri Navneet Singh s/o Dalel, Randhir s/o Nafe Singh and Ranvir s/o Nafe Singh (Candidate) on the complaint of one ASI Raghubir Singh of PS Sadar Narwana who alleged that he and HC Shish Pal while on patrolling duty in the intervening night of 29/30.05.2008 heard noise of two fires. They got down from the vehicle and saw that there was a car behind them which stopped near them in which there were three boys who all were drunk. They (accused) started beating them and tore his uniform. One of the accused was armed with pistol and they threatened them that if they go behind them they would fire on them. After beating and threatening both the police official, the accused left the spot. ASI Raghubir Singh (complainant) informed the PCR at Narwana and followed the car in which the accused persons were travelling and also noted the registration number of the vehicle. At about 1.00 AM, Constable Ramesh Kumar and ASI Rattan Singh came in a PCR vehicle and apprehended the culprits. After the necessary formalities of investigation, challan was presented in the court against the accused. During the trial, one Constable (PW-1) stated that he was on patrolling duty alongwith ASI Raghubir Singh (Complainant). He heard noise from behind and the accused persons threatened to kill them but during cross examination he failed to tell the number of persons in the vehicle from which the sound of firing emanated and also failed to identify the accused persons in the court. He stated that they had recovered a revolver from the accused and not a pistol. They PW-2 ASI Raghubir Singh, the complainant who was also the IO of the case did not produce case property in the court. He could not tell about the person who had fired and the persons who had beaten him. PW-4 HC Shish Pal also failed to recognize the accused persons due to darkness. DSP Sube Singh stated that the FIR was not written by him and he did not know who registered the FIR. He admitted that he did not try to join any public witness. He also admitted that the site plan was not prepared by him and he did not arrest the accused persons. The statements of police officials

were found contradictory to each other during the cross examination. The prosecution witnesses admitted that they had not seen the person who had fired and also the persons who had beaten them. Sh. Ranvir Singh (Candidate) was in possession of license under Arms Act so offence against Ranvir (Candidate) u/s 25/54/59 Arms Act was not proved. The Hon"ble Court of Judicial Magistrate 1st Class, Narwana, Haryana vide its judgment dated 15.06.2009 acquitted all the accused by giving them benefit of doubt

In this case, though the prosecution failed to establish the person who had fired and who had beaten the police officials but the incident of firing had taken place. Shri Ranvir Singh was checked at the place of incident and he was found in possession of a pistol which shows that he was the person who had fired. This is a case of acquittal in which material witnesses turned hostile. His involvement shows premeditated tendency to indulge in crime without fear of law and such type of attitude renders him unsuitable for appointment in a law enforcing agency and in a disciplined force like Delhi Police.

Moreover, Shri Ranvir Singh filled the application form on 12.11.2007 and attestation form on 28.03.2008. The case was registered on 30.05.2008 subsequent to submission of application and attestation forms. The information regarding registration of the case was required to be communicated to DCP/4th Bn. DAP but he failed to do so despite clear instructions mentioned in these forms that "if a criminal case is registered against you or you are arrested/detained/convicted/debarred etc. subsequent to the submission of the forms the relevant details regarding the same should be communicated to DCP/4TH Bn. DAP, failing which it shall be deemed to be suppression of factual information.

From the above, it is obvious from the judgment that the evidence was "contradictory and inconsistent". Constable Ramesh Kumar, Police driver turned hostile and did not identify the accused in the Court and ASI Raghubir Singh failed to identify the person who had beaten him and the person who had fired a shot. There is no denying that incident took place in which firing occurred. The seized pistol was licensed in the name of Shri Ranvir Singh, the applicant. The Ld. Judicial Magistrate acquitted the accused by giving them benefit of doubt. However, it is obvious by the test of preponderance of probabilities that Ranvir Singh was involved in the incident and that the shot had been fired by the pistol licensed in his name. An individual with such a past is obviously unfit for police service.

In view of the above facts, Sh. Ranvir Singh, is not found suitable for appointment in Delhi Police for the post of sub-Inspector (Exe.).

7. The record produced before us contains the Minutes of the Meeting of the Screening Committee which in addition contains the following - "In this case, though the prosecution failed to establish the person who fired and who beat the police officials but the incident of firing was happened, Sh. Ranvir Singh (candidate) was checked at the place of incident and he was found in possession

of pistol which shows that he was the person. This is a case of acquittal in which material witnesses turned hostile. His involvement shows premeditated tendency to indulge in crime without fear of law and such type of attitude renders him unsuitable for appointment in a law enforcing agency and in a disciplined force like Delhi Police."

8. The respondent had also alleged that the petitioner was indulging in pick and choose policy and stated that about 6 candidates have been given appointment despite being involved in criminal cases. The names and particulars have also been given. This plea of the respondent is also supported from the records produced before us. Though in the said records the reasons for the Screening Committee recommending six other candidates who were also charged with offences, for appointment are not contained and

those records were not asked for or produced before us but the very fact that of the seventeen candidates whose cases were examined by the Screening Committee six were recommended shows application of mind by the Screening Committee. It was up to the respondent to establish that the six candidates who notwithstanding involvement in a criminal case were recommended for appointment by the Screening Committee, were similarly placed as the respondent and to make out a case of discrimination. The same has not been done.

9. We have recently in our judgment dated 16.11.2011 in W.P.(C) No.8752/2011 titled Vinod Kumar Vs. Commissioner of Police held that the Court cannot interfere in the assessment made by the Delhi Police as employer, as to who is suitable and who is not for serving in the force which is required to constantly interact and render assistance to public. It has been repeatedly held that the Court cannot interfere in the selection process.

10. We may in this regard also notice that the "Policy For Deciding Cases of Candidates Provisionally Selected in Delhi Police, Involved in Criminal Cases (Facing Trial or Acquitted)" has been framed vide Standing Order No.398/2010 dated 23.11.2010. The said Policy also provides reference of such candidates to the Screening Committee to assess suitability for appointment; once the petitioner itself is not rejecting the candidature merely on the ground of involvement in a criminal case and notwithstanding such involvement assessing the suitability it cannot be denied the said right. The petitioner Delhi Police is often criticized for its force. The popular public conception of the men in Police uniform being the biggest "Gundas" cannot be ignored. In the light thereof, a candidate whom the experts in the Screening Committee have found unfit for serving in the police cannot be thrust on the police and the same if done may not only instill a false feeling of bravado and confidence in respondent, detrimental to his functioning in the police but may also affect the morale of the police department. No undue weightage can be given to the factum of the respondent being acquitted of the criminal charge. Just like such acquittal has been held not to impact the departmental inquiry proceedings on the same charge, for the

reason of test of proof being different in the two proceedings, similarly in the matter of employment also, an acquittal of a criminal charge cannot be allowed to wash away the said charge or to place a person in the same position as if never had been charged

11. The petitioner was thus fully entitled to consider the factum of the charge against the respondent even though ultimately acquitted thereof in assessing suitability of the respondent for induction in the police force. Else no error is found in the said assessment capable of interference.

12. The Tribunal in the impugned order has blindly followed the dicta in Sandeep Kumar and other similar judgments in which no assessment of suitability had been done by the Screening Committee. The facts of the present case do not allow applicability of the ratio of the said judgment.

13. The petition therefore succeeds and is allowed. The order dated 25.05.2011 of the Tribunal is set aside / quashed and the orders of the petitioner rejecting the candidature of the respondent for appointment to the post of Sub-Inspector (Executive) Male are upheld.

14. No order as to costs.