
(2013) 07 DEL CK 0044
In the Delhi High Court
Case No : Writ Petition (C) 1869 of 2007

Commissioner of Police

APPELLANT

Vs

Vikram Singh

RESPONDENT

Date of Decision : 03-07-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 323, 325, 452

Citation : (2013) 07 DEL CK 0044

Hon'ble Judges : V. Kameswar Rao, J; Pradeep Nandrajog, J

Bench : Division Bench

Advocate : V.K. Tandon and Mr. Yogesh Saini, for the Appellant; Gyanendra Singh, for the Respondent

Final Decision : Allowed

Judgement

Pradeep Nandrajog, J.

CM No. 6807/2013

Learned counsel for the petitioners submits that if learned counsel for the respondent is prepared to argue the writ petition today itself early hearing as prayed for may be allowed. Learned counsel for the respondent who has moved the application seeking early hearing says that he is prepared to argue the writ petition today itself. Accordingly, the application is allowed.

WP(C) 1869/2007

1. Undisputedly the respondent was an accused in two FIRs registered at PS Doghat, District Meerut, U.P. In both FIRs, registered in the year 1995, pertaining to two incidents, he was named as an accused for having committed offences punishable u/s 147/148/323/325 IPC and Sections 147/148/452/504/506 IPC. The respondent was acquitted in the two FIRs notwithstanding the complainant in the first FIR naming respondent as one of the four persons who had assaulted Yashpal for the reason the complainant resided

from his statement made to the police based thereon the FIR was registered pertaining to three other accused whose involvement he denied while deposing in Court but frankly admitted during cross examination that he was doing so because of a compromise entered into with the said accused and likewise being the position in the second FIR in which the complainant did not name the respondent as a part of the unlawful assembly which had entered the house of the complainant, armed with Lathis, and intimidated the persons in the house. The complainant named only four out of six persons he had named before the police as the one who entered his house.

2. Both the orders acquitting the respondent are dated May 15, 1996.

3. Being selected as a Constable (Exe.) with the Delhi Police in the year 1997 and required to fill up the enrolment form the petitioner did not disclose he being an accused in the two FIRs above noted and he being acquitted. In column 12 of the enrolment form information sought was whether the application was ever accused of having committed an offence. If yes, the nature of the offence and the fate of the charge. Further, the applicant was required to inform whether he had ever been arrested. The respondent wrote "NO" against column 12.

4. Being given provisional appointment and on probation pending character verification, upon learning that respondent was an accused in two FIRs and this information he had deliberately suppressed the order granting appointment was cancelled. Respondent's challenge before the Tribunal succeeded when OA No. 1795/2005 was allowed on December 13, 2006; the order impugned.

5. Learned counsel for the petitioner relies upon the decision of the Supreme Court reported as *Daya Shankar Yadav Vs. Union of India (UOI) and Others*, . Learned counsel for the respondent relies upon the decision of the Supreme Court reported as *Commr. of Police and Others Vs. Sandeep Kumar*, .

6. Indeed, the law declared by two Division Benches of the Supreme Court in above noted two decisions is diametrically opposite. Whereas the decision in *Daya Shankar's* case (supra) lays emphasis on the importance of character verification in public employment and treats it as an actionable wrong justifying denial of public employment if the person seeking public employment deliberately withholds relevant information having bearing on his character i.e. does not disclose his involvement for having committed an offence or of being charged to have committed an offence, the decision in *Sandeep Kumar's* case takes a view that who else other than youth would commit acts of indiscretion and would try and hide the truth regarding the same and that such kind of behaviour should be condoned.

7. In the decision reported as *Govt of NCT of Delhi and Another Vs. Robin Singh*, a Division Bench of this Court took a middle path opining that for petty offences a person should not be denied public employment. Another Division Bench took a view on April 29, 2013 in *W.P.(C) No. 4052/2012 Commissioner of Police Vs. Mukesh Kumar* that mere acquittal at a criminal trial would not mean that the

person was innocent as was held by the Supreme Court in the decision reported as Management, Pandiyan Roadways Corp. Ltd. Vs. N. Balakrishnan, and thus the nature of the acquittal, the contents of the FIR, medico-legal reports and other evidence gathered during investigation needs to be looked into for the reason witnesses being suborned or under community pressure victims being made to compromise are not unknown.

8. As was observed by the Supreme Court in the decision reported as Delhi Administration through its Chief Secretary and Others Vs. Sushil Kumar, verification of the character and antecedents is an importance criteria to test whether the selected candidate is suitable to a post under the State.

9. A police officer must show emotional maturity and the ability to remain calm in emotionally charged situations. He must exhibit ability to handle difficult situations and be responsive.

10. It is in this context that it assumes importance to note that the two FIRs in question reveal a hot headed tendency exhibited by the respondent. His propensity to be a part of a group and take law in his own hands is exhibited. He does not mind exhibiting his muscle. Notwithstanding respondent being acquitted due to the complainant's compromising with some of the accused, including the respondent in one case, the testimony of the complainant in the Court would reveal the propensity of the respondent to be a hot headed and a brash person.

11. When it comes to employment in the police, Courts have to be extra cautious to ensure that not only undesirable elements do not enter the police force but equally that hot headed persons who cannot restrain themselves to use force do not enter the police force. It is not uncommon to come across newspaper reports, with frequency, reporting the brash and hot headed response by police officers in hostile situations. The innocent protesting citizens are brutalized because the police officers lack maturity to handle hostile situations. Thus, where such a tendency is discernable in an aspirant desirous of joining the police force, public good would warrant employment to be denied.

12. Learned counsel for the respondents submits that his client is 40 years of age as of today and has been mellowed down due to experience in life.

13. We have to test the legality of the order passed by the petitioner in light of the material available at the relevant time and not to be influenced by the passage of time.

14. The writ petition is accordingly allowed. Impugned order dated December 13, 2006 be set aside and OA No. 1795/2005 filed by the respondent is dismissed. No costs.