

(2012) 05 DEL CK 0719

In the Delhi High Court

Case No : Writ Petition (C) 2671 of 2012

Government of NCT of Delhi

APPELLANT

Vs

Sumit Kumar

RESPONDENT

Date of Decision : 07-05-2012

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 19, 19(1)
Penal Code, 1860 (IPC) — Section 323, 325

Citation : (2012) 190 DLT 551

Hon'ble Judges : V.K. Jain, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : V.K. Tandon, for the Appellant;

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—By way of this writ petition, the order dated 16.10.2012 passed by the Central Administrative Tribunal, is under challenge. The respondent had applied for the post of Constable (Executive) in the Delhi Police for the Recruitment Year 2003. He had filed his application for the same on 12.03.2009 and he had also submitted an Attestation Form on 22.10.2009. In both, the application form as well as the Attestation Form, the respondent had not disclosed that he had been involved in FIR No. 60/2004 under Sections 323/325 of IPC registered at Police Station Nangal Chaudhary (Haryana), District Haryana, registered on 19.06.2004. The respondent had cleared the tests and was being considered for employment when this fact was discovered by the petitioner and consequently a show-cause notice dated 23.03.2010 was issued to the respondent asking him to show cause as to why his candidature ought not to be cancelled. The respondent submitted a reply in which he had specifically taken the plea that he was under the impression that, as he had been acquitted, it was not necessary for him to provide the said information with regard to his involvement in the said FIR. In the said reply, the respondent also informed the petitioner that at the time when the FIR was registered, the respondent was a

juvenile and it is because of this that his case was considered by the Juvenile Justice Board in terms of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as "the said Act"). In fact, it was pointed out that he had been acquitted by the Juvenile Justice Board on 10.08.2007 which was much prior to his having applied, inasmuch as his application was dated 12.03.2009.

2. The petitioner did not accept the reply submitted by the respondent and cancelled the candidature of the respondent by virtue of the order dated 21.10.2010. It is against that order that the respondent preferred the said Original Application which has culminated in the impugned order dated 16.01.2012, whereby the order dated 21.10.2010 has been set aside.

3. In the impugned order, the Tribunal has essentially placed reliance on decisions of the Supreme Court as well as of this Court. The main decision relied upon by the Tribunal was that of Commr. of Police and Others Vs. Sandeep Kumar,

4. In so far as the issue with regard to concealment of involvement in criminal cases is concerned, the same has also been considered by us in great detail in the case of Devender Kumar Yadav v. Govt. of NCT of Delhi and Anr. WP(C) No. 8731/2011 decided on 30.03.2012. The Tribunal, therefore, has not committed any error in following the principles laid down by the Supreme Court and this Court.

5. In the present case, we note that there is an added dimension and that is that the respondent was a juvenile when he had allegedly committed the offences under Sections 323/325 IPC. Section 19 of the said Act is to the following effect:- 19. Removal of disqualification attaching to conviction.-

(1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.

It is apparent that by virtue of the said provisions of Section 19(1) of the said Act, notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of the said Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law. In the present case, the respondent was not held to have committed an offence. He had, in fact, been acquitted by the Juvenile Justice Board on 10.08.2007. When a juvenile does not suffer any disqualification even after it is found that he had committed an offence, there is no question at all of a juvenile suffering any disqualification or disadvantage in the case of an acquittal by Juvenile Justice Board. Consequently, we find that the decision rendered by

the Tribunal cannot be faulted. The writ petition is dismissed. There shall be no order as to costs.