
(2018) 09 CAT CK 0148

In the Central Administrative Tribunal

Case No : Original Application No. 2434 Of 2013

Manjeet Singh

APPELLANT

Vs

Delhi Transport Corporation And Ors

RESPONDENT

Date of Decision : 11-09-2018

Acts Referred:

Indian Penal Code, 1860 — Section 28, 279, 327, 337, 338
Probation Of Offenders Act, 1907 — Section 3

Citation : (2018) 09 CAT CK 0148

Hon'ble Judges : V. Ajay Kumar, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Arati Mahajan

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

1. The applicant, a probationary Driver in the respondent-Delhi Transport Corporation (DTC), filed the OA seeking to quash the impugned order dated 04.05.2013, whereunder, he was terminated from service under Clause 9(A)(i) of DRTA (Conditions of Appointment and Service) Regulations, 1952.

2. The brief facts, as narrated in the OA, are that the applicant was appointed as Driver in the respondent-DTC with effect from 05.05.2011. Vide order dated 05.11.2012, the respondents issued a notice to the applicant stating that in the CVR form submitted by him at the time of his appointment, against Column No.12 with regard to the information about the criminal cases against him, he answered "Nil" but whereas during police verification, it was revealed that 2 different cases in FIR No.327/07 under Sections 279/337 and FIR No.76/10 under Sections 279/338 were registered against him at PS Kapashera and that he had already been convicted by the Session's Court on 11.03.2003 and 06.12.2007 and accordingly called for his explanation with regard to the said concealment.

3. The applicant submitted his explanation. In spite of the same, the respondents vide Annexure A-4 order dated 26.11.2012, again issued another notice stating that as the applicant furnished false information and secured the employment by suppressing the correct information, why his services shall not be terminated. The applicant vide Annexure A-5 letter dated 13.12.2012 again submitted his reply to the said notice also. However, in spite of the reply by the applicant, the respondents vide the impugned Annexure A-1 order dated 04.05.2013, terminated the services of the applicant. Hence, the OA.

4. Heard Shri U. Srivastava, learned counsel for the applicant and Ms. Arati Mahajan Shedha with Ms. Swati, learned counsel for the respondents and perused the pleadings on record.

5. Shri U. Srivastava, the learned counsel appearing for the applicant would submit that though 2 FIRs bearing No.327/07 under Sections 279/337 and FIR No.76/10 under Sections 279/338 were registered against the applicant at PS Kapashera but both the said cases were closed much before the appointment of the applicant, i.e., prior to 05.05.2011 and the applicant, who was under the bona fide impression that those cases which are pending as on the date of filling up the CVR form, only required to be mentioned, answered the said question against Column No.12 as 'Nil' as no cases were pending against the applicant as on the date of his appointment. The learned counsel further submits that, in fact, the applicant was acquitted in both the said cases and for that reason also, he thought there was no need to mention anything about the same. Accordingly, he submits that the mentioning of 'Nil' against Column No.12 of the CVR form cannot be treated as suppression or falsification of facts by the applicant. He further submits that even otherwise the acts of the applicant, a young man, should be treated as a minor indiscretion and should be condoned keeping in view his future.

6. On the other hand, Ms. Arati Mahajan Shedha, learned counsel appearing for the respondents submits that on selection, the applicant was appointed w.e.f. 05.05.2011 and was placed on probation for a period of 2 years. As per Clause 13 of the appointment order "in case of finding any information given by applicant incorrect at any stage, his services are liable to be discharged from the threshold". Even in the CVR form submitted by the applicant on 16.11.2011, it was specifically mentioned that "furnishing of false information or suppression of any information in the Attestation Form would be disqualification and is likely to render the candidate unfit for employment under Government and if the fact that the false information has been furnished or there has been suppression of any factual information in the Attestation Form comes to notice at any time during the service of a person, his services would be liable to be terminated", and in spite of the same, the applicant intentionally answered to Column 12 as "Nil" where a specific question was asked "whether any case has been filed against you in any court for any offence/crime or you have been restrained/punished or bailed/fine imposed on you, and whether any case is pending against you in any

court at the time of filling this Character Verification Form and if the answer is yes, then provide the details of pending, fine levied, punishment imposed in the concerned case".

7. The learned counsel further submits that on police verification, it was found that the applicant was convicted in case FIR No.327/07 under Sections 279/337 IPC PS Kapashera and fined Rs.500/- under Section 279 and a compensation of Rs.10,000/- was imposed upon the applicant under Section 337 IPC, vide order dated 12.08.2008 by the Court of Shri Gautam Mannan, Metropolitan Magistrate, Delhi. In FIR No.76/10, filed under Sections 327/28 IPC PS Kapashera, the applicant was acquitted due to compromise between the parties vide order dated 07.08.2011 of Shri Manish Khurana, Judge, Lok Adalat.

8. In view of the concealment/suppression/furnishing of false information by the applicant, and also in view of his conviction in a criminal case for rash and negligent driving, the services of the applicant were terminated after providing him due opportunity and after issuing show cause notice and after considering his explanation thereto. The submission of the applicant that he has given a wrong answer in the CVR form, unknowingly and without understanding the exact meaning and implication of the same cannot be accepted and it cannot also be treated as a minor indiscretion by a young person. The learned counsel also placed reliance on various decisions in support of his submissions.

9. The post in question is Driver in the respondent-DTC. Admittedly, the applicant was convicted in case FIR No.327/07 under Section 279 of IPC, i.e., rash driving or riding on a public way and in view of the compounding of the offence under Section 338 IPC in view of the fact that the injured had been suitably compensated, he was released after admonition under Section 3 of the Probation of Offenders Act. Further, admittedly, the applicant was convicted in FIR No.76/10 under Sections 279 and 338 IPC (causing grievous hurt, i.e., rash driving or riding on a public way and causing grievous hurt by act endangering life or personal safety of others respectively) and was acquitted due to compromise between the parties. Therefore, the offences for which the applicant was convicted, cannot be equated to an offence of trivial nature, such as, shouting slogans at young age or petty offence, which, if disclosed, would not have rendered an incumbent unfit for the post in question, as mentioned in Sumit Kumar Vs. Union of India and Others in W.P. (C) No.3775/2017 dated 05.09.2017 of the Hon'ble High Court of Delhi on which the learned counsel for the applicant placed reliance. Any leniency may lead to a major accident causing loss to the property and even to life.

10. Even the submission made by the applicant that the impugned termination is liable to be set aside as the respondents have not followed the procedure, such as, conducting regular enquiry etc., also cannot be accepted as the applicant was admittedly under probation as on the date of issuance of the termination order. Even if such a course is adopted, the same would be a futile exercise, as admittedly, the applicant was convicted for an offence of rash and negligent

training.

11. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. No costs.