
(2012) 08 DEL CK 0096
In the Delhi High Court
Case No : Writ Petition (C) 4773 of 2012

Ms.Neetu Mishra

APPELLANT

Vs

Uoi and Others

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 324, 325, 34, 504

Citation : (2012) 08 DEL CK 0096

Hon'ble Judges : Pradeep Nandrajog, J;Manmohan Singh, J

Bench : Division Bench

Advocate : Ambika Ray, for the Appellant; Ashwani Bhardwaj, for the Respondent

Final Decision : Allowed

Judgement

Pradeep Nandrajog, J.—Learned counsel for the respondents, who appears on advance copy being served says that the writ petition be dismissed in limine for the reason the petitioner has admitted in the writ petition that when she was offered employment as a "Constable" in CRPF, while filling up the enrollment form, as per column 12-A whereof she was required to disclose: Whether she was ever an accused for having committed an offence, the petitioner wrote in the negative. Counsel highlights that in a matter relating to public employment, past antecedents are very important. As per learned counsel, if a person suppresses relevant information having a bearing on the antecedents and the character, the person concerned would lose the right to public employment. As a general statement, what is stated by learned counsel for the respondents may be correct. But it has to be understood with reference to public employment where the person concerned renders a service which brings the person into interface with the public or which requires the person to deal with public issues, be it by way of policy or by executive action. But, if the public employment is to perform a very basic duty, we wonder what relevance said aspect of the matter would have to the employment.

2. The petitioner sought employment to the lowest rung in CRPF i.e. as a Constable. She was offered employment and was required to fill up the enrolment form somewhere in the month of March 2010. Column 12-A of the enrolment form required petitioner to disclose whether she was ever charged for having committed an offence. She wrote: "No". This is admittedly incorrect. When this was detected, and that was when police verification was got done, on March 24, 2011 the petitioner was removed from service. Departmental appeal was rejected on August 12, 2011.

3. Petitioner does not dispute that she was named as an accused in an FIR for offences punishable u/s 323/324/504 IPC PS Mangolpur and when she filled up the form she was still an accused.

4. As per the petitioner she committed an unintentional mistake. She was aged 20 years when she filled the form. So overwhelmed was she by the fact that she got a job that she did not even bother to properly read the contents of the form.

5. It has to be kept in mind that the petitioner comes from the marginalized section of the society. She seeks employment as a Constable.

6. In the decision reported as Commr. of Police and Others Vs. Sandeep Kumar, , the Supreme Court highlighted the importance of compassion when acts of indiscretion are committed by young people. In said case, Sandeep Kumar, aged 20 years had concealed that he was an accused for having committed an offence punishable u/s 325/34 IPC. The post to which he was seeking appointment was that of a Head Constable in Delhi Police. Appointment being cancelled for having supplied wrong information, was held to be an unjustified act.

7. In the decision dated August 25, 2010 in WP(C) No. 2068/2010 Govt. of NCT Delhi & Anr. v. Robin Singh, a Division Bench of this Court had highlighted that a person, who may not be a juvenile, and would be treated as a major in law, should not be denied public employment for indiscreet acts which do not attract moral turpitude; highlighting that though a person above the age of 18 years would be treated as a major i.e. not a juvenile, but such a person, not being tampered with experience of life, needs to be treated with compassion. It was highlighted therein that research shows that criminality is bred if a person who commits minor offences is ostracized by society and is denied public employment. The decision highlights that petty offences and especially the ones which are non-cognizable have to be treated in a separate category with respect to the offenders.

8. Thus, we allow the writ petition and quash the order terminating petitioner's service, requiring petitioner to be reinstated forthwith. But, we deny wages for the period post petitioner's service being terminated till reinstatement, which shall be done within a period of six weeks from today. No costs.