

(2012) 08 DEL CK 0162
In the Delhi High Court
Case No : WP (C) 4772 of 2012

Naresh Kumar

APPELLANT

Vs

CISF Thru" The Director General, CISF and Others

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

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

Citation : (2012) 08 DEL CK 0162

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

Bench : Division Bench

Advocate : Sachin Chauhan, for the Appellant; Himanshu Bajaj, Advocate for R-1 to R-4, 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 he was offered employment as a "Constable Driver" in CISF, while filling up the enrollment form, as per column 12-A whereof he was required to disclose: Whether he 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 the duty of driving, we wonder what relevance said aspect of the matter would have to the employment.

2. The petitioner sought employment to the lowest rung in CISF i.e. as a Driver. He was offered employment and was required to fill up the enrolment form somewhere in the month of September 2011. Column 12-A of the enrolment form required petitioner to disclose whether he was ever charged for having committed an offence. He wrote: "No". This is admittedly incorrect. When this was detected, and that was when police verification was got done, on October 01, 2011, the offer of appointment was withdrawn. Appeal filed was rejected on December 21, 2011.

3. Petitioner does not dispute that he was named as an accused in FIR No.321/1998 for offences punishable u/s 323/324/34 IPC PS Khole. He was never arrested and was acquitted on April 06, 1999. It needs to be highlighted that the petitioner was a juvenile when the FIR was registered, being 15 years of age. He filled up the enrollment form when selected for appointment in the year 2011.

4. The petitioner claims, and for which we have no reasons to doubt, he misread the question as if he was to inform whether he was currently an accused. The petitioner claims that since he had been acquitted he thought that he ought to have written "No" against the column concerned.

5. It has to be kept in mind that the petitioner comes from the marginalized section of the society. He seeks employment as a Driver. He was aged 15 years when he was made an accused.

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 the respondent to withdraw the letter withdrawing the letter of

offer issued to the petitioner. Petitioner be given employment forthwith. No costs.