

(2019) 10 CAT CK 0046

In the Central Administrative Tribunal

Case No : Original Application No. 100, 1399 Of 2015, Miscellaneous Application No. 100, 1286 Of 2015

Sanjay Kumar

APPELLANT

Vs

Delhi Transport Corporation And Ors

RESPONDENT

Date of Decision : 15-10-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 279, 323, 341, 427

Citation : (2019) 10 CAT CK 0046

Hon'ble Judges : Pradeep Kumar, Member (A), Ashish Kalia, J

Bench : Division Bench

Advocate : Ram Kavar, Ruchira Gupta

Final Decision : Dismissed

Judgement

Ashish Kalia, J

1. Having qualified the written exam held by the DSSSB, the applicant was selected provisionally for the post of Driver in DTC on 23.12.2009. He was issued a charge sheet on 16.12.2001, alleging that he concealed the fact of being involved in three criminal cases while filling the application form. Consequent thereto, his probation was extended upto 22.06.2012. Applicant submitted his reply to the charge sheet, denying the charges. Inquiry Officer (IO) was appointed. In his defence in the inquiry, the applicant stated that all the three said cases were already over by the time the exam was conducted. The IO concluded that the charges leveled against the applicant were found proved.

2. Based on the inquiry report submitted dated 12.03.2012, the applicant's services were terminated vide impugned letter dated 29.05.2012. The applicant submitted his appeal on 25.06.2012, which was also rejected vide letter dated 27.07.2012.

3. The applicant has also filed M.A.1286/2015 seeking condonation of delay in filing the OA. He has pleaded that he was misled by the conflicting decisions on

the issue, which resulted in delayed filing of the OA.

4. On merits, the applicant has pleaded that for trivial offences of non-mentioning of criminal case or imposition of little fine, the respondents are not justified in denying employment to him.

5. The respondents filed detailed counter affidavit opposing the OA. They stated that the applicant was involved in a case of rash and negligent driving of a Bus. It is stated that the applicant concealed the information of being involved in criminal cases while filling the application form. Retaining a person in service involved in case of rash driving of Bus, could endanger human life and personal safety of passengers, and especially so as his duties involve driving a DTC Bus. The applicant admitted his guilt during the course of the inquiry. The respondents stated that termination of service of the applicant was in accordance with clause 7 of his appointment letter which stipulated that in the case of negative character verification, the services will be terminated without any notice.

6. On limitation, the respondents stated no cogent explanation has been given by the applicant for delay of 2 years and 10 months.

7. Heard the learned counsel for the parties at length, perused the record and appreciated the legal submissions.

8. For reasons stated therein, M.A. seeking condonation of delay is allowed.

9. The applicant did not disclose the details of three criminal cases filed against him in form no.17, while seeking employment as Driver in the DTC. The first case filed under Section 341/323/34 IPC, was disposed of on 2.02.1998 as compromised. The second case was of 12.07.2003 when applicant was driving a Bus, it caused an accident and a case of rash and negligent driving was lodged against the applicant under Section 279/427 IPC and 3/81 of Motor Vehicle Act (Driving without Licence). The applicant admitted the guilt and was awarded simple imprisonment and fines were also imposed vide orders dated 10.05.2006. In the third case filed under Excise Act, applicant was found drinking at a public place in night. In this case fine was imposed vide orders dated 2.09.2011.

10. The details of above cases were not shown in the application form. This information was subsequently revealed in police verification.

11. The applicant was issued charge sheet wherein he has admitted all the charges and his services were terminated. Even otherwise, as per clause 7 of the appointment letter which reads as under:

"He is required to declare information as prescribed in Form No.17. In case of negative character verification report, his services will be terminated without any notice" the services of the applicant were liable to be terminated on receipt of negative character verification report.

12. Further, as per office circular dated 26.10.2012 bearing No.PLD-III (Misc)/2012/3373 of DTC, DRTA (Conditions of Appointment and Service

Regulations) 1952, instructions regarding concealment of facts by employees were re-issued. While taking note of the Standing Orders regarding recruitment as given in clause 10 and the stipulations given in CVR form, the following directions were passed:

"When a person is on probation and a report of concealment/ suppression of any factual information relating to his character and antecedents or any other information in the CVR/Attestation Form is received, the services of such employees are liable to be terminated after issuing a Show-Cause Notice."

13. The applicant has been accused under Section 279 IPC and has admitted the guilt of rash and negligent driving, which could endanger the life of general public. While non-disclosure of such information is a conscious effort to hide his antecedents, some one who is seeking to be employed as a Driver in DTC with such traits, is a positive risk to passengers and as such is detrimental to the post of Driver.

14. The respondents, in support of their stand, cited the judgment of the Hon'ble Supreme Court in *Daya Shanker Yadav Vs. Union of India*, (2010) 14 SCC 103, wherein it has been held that making a false statement or suppressing material information in verification form is one of the most important criteria to test whether the selected candidate is suitable for the post under the state. It has further been held that the purpose of seeking such information is to ascertain the character and antecedent of the candidate so as to assess the suitability for the post.

15. On the contrary, learned counsel for the applicant cited the judgment of the Hon'ble Supreme Court in *Avtar Singh Vs. Union of India*, SLP (C) No.20525/2011, wherein it has been held that trivial matters shall not come in the way of appointment of the employee in case of non-disclosure unless it involves moral turpitude, cheating, misappropriate etc. Reliance on behalf of the applicant was also placed on *Commr. of Police and ors. Vs. Sandeep Kumar*, Civil Appeal No. 1430/2007, wherein it has been held that non-disclosure of involvement in the criminal case was not a serious offence like murder, dacoity or rape and hence a more lenient view should have been taken.

16. However, the facts and circumstances of the present case are entirely different. The applicant herein has not been acquitted and has been found guilty of rash and negligent driving of a Bus. His appointment to the post of Driver of a DTC Bus is thus clearly detrimental for public safety, which is of utmost importance.

17. In view of the above discussion, we find no merit in the OA. The same is dismissed with no order as to costs.