
(2006) 10 DEL CK 0074
In the Delhi High Court
Case No : WP (C) 7548 of 2003

Sh. Rameshwar Prasad Meena

APPELLANT

Vs

Commissioner of Police and Another

RESPONDENT

Date of Decision : 11-10-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 447

Citation : (2006) 92 DRJ 194

Hon'ble Judges : Vipin Sanghi, J; Manmohan Sarin, J

Bench : Division Bench

Advocate : Sanat Kumar and Sanjay Sharma, for the Appellant; Saleem Ahmed and Pervez Siddiqui, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Petitioner by this writ petition seeks a writ of certiorari to quash the order dated 6th January, 2003, passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the "Tribunal"). The Tribunal by the said order dismissed the original application, moved by the petitioner, seeking quashing of decision dated 20th August, 2001 of the Dy. Commissioner of Police, cancelling the candidature of the petitioner for the post of Constable(Driver) in Delhi Police.

2. Petitioner pursuant to an advertisement published in the newspaper for recruitment of Constable(Driver) had applied for the post. Petitioner cleared the physical requirement test, as also the road test and driving test held. Petitioner was thereafter directed to appear for an interview which also he cleared. The medical test of the petitioner was conducted on 19th September, 2000. Petitioner was duly selected for the post of Constable(Driver) and directed to deposit original metriculation certificate. Petitioner was required to submit an attestation form. The said form required the petitioner to answer, inter alia, the following question:

13 (a) Have you been arrested/prosecuted kept under detention or bound down/fined, convicted by a court of law for any offence of debarred/disqualified by any public service commission from appearing at its examination selection or debarred from any other educational authority/institution.

(b) If any case pending against you in any court of law university or any other education authority/institution at the time of filling up this attestation form (if the answer to (a) and (b) is "Yes", full particulars of the case arrest, detention, fine, conviction sentence etc., in the nature of the case pending in the country, university/education authority etc., at the time of filling up this form should be given.

(c) Petitioner answered "NO" to both these questions and the form was submitted on 29th June, 2000.

The attestation form at the beginning also carried the following warning in clear terms:

WARNING : the furnishing of the false information or suppression of any factual information in the attestation form would be disqualified and is likely to render candidate unfit for employment under the Government.

2. If detained convicted debarred etc., subsequently on completion and submission of this form the detail as should be communicated immediately to the UPSC or the authority to whom the attestation form has been sent earlier, as the case may be failing which it will be deemed to be suppression of factual information.

(4) A case for criminal trespass u/s 447 IPC had been registered against the petitioner on 25th July, 1999 in relation to a dispute with regard to the agricultural land. Petitioner undoubtedly was prosecuted but eventually acquitted after being given benefit of doubt. Learned Counsel for the petitioner submitted that the dispute was a family dispute relating to agricultural land and that though the Judge had acquitted the petitioner on merits, it had been formally described as granting of benefit of doubt.

5. Learned Counsel submitted that petitioner in fact vide its letter of 21st October, 2000, duly informed the Police Authorities about the case by furnishing the order dated 10th October, 2000, acquitting him. It may be noted that in the meanwhile on 17th October, 2000 as a result of the police verification, the factum of petitioner's involvement in the criminal trespass case had been duly notified to the department.

6. A show cause notice was issued to the petitioner on 4th January, 2001, calling upon him to show cause as to why his candidature be not cancelled for concealment as well as wrong declaration in the attestation form. In reply to the show cause notice, petitioner took up the plea that when he filled up attestation form he was given to understand that since the case is of the nature of a civil dispute, it was not required to be mentioned and soon after when he consulted

some other persons, they advised him to intimate the police, irrespective of the civil nature of the dispute. Accordingly, he submitted that he informed the department on 21st October, 2000. He pleaded that he did not conceal any requisite information. It was also urged that there was no stigma attached following the acquittal.

7. We may notice that when petitioner originally filled up the form on 18th January, 1999, the case had not been registered and the registration of the case was only on 25th July, 1999.

8. Mr.Sanat Kumar, appearing for the petitioner laid considerable emphasis on the fact that an offence u/s 447 IPC is punishable with three months imprisonment and the show cause notice had erroneously mentioned it to be a case u/s 477 IPC and the same could have affected the decision of the respondent as the offence u/s 477 is a graver offence and is punishable with imprisonment for life or for a term that may extend to seven years. The mentioning of the offence as u/s 477 IPC instead of 447 IPC appears to be a typographical error as the petitioner was charged for criminal trespass and not for fraudulent destruction of valuable securities.

9. Mr.Sanat Kumar also submitted that the nature of dispute was really a civil one with regard to the possession of the land and the case was pending in the Revenue Court also. He submitted that this was not a case of willful or intentional concealment. Further, he submitted that petitioner was a mere metriculate and could not comprehend the meaning and purport of question 13(a) & (b) of the Attestation Form. He says that these technical and complicated matters could not be fathomed by the petitioner. Counsel next urged that acquittal in the case completely washes away whatever cloud had arisen in respect of petitioner's antecedents. He further submitted that it was hardly a case of any criminal propensity. Counsel places reliance on the following judicial pronouncements:

1. Commissioner of Police, Delhi and Another Vs. Dhaval Singh,
2. Sandeep Kumar v. Commissioner of Police WP(C). No. 12565/04 decided by a Division Bench, comprising one of us (Manmohan Sarin, J.)

10. We have carefully considered the submissions made, perused the record and also heard learned Counsel for the respondent in opposition. The petitioner, who had been granted bail in the case may not understand the legal implications namely bail follows arrest. He may nurture a belief since he may not have been locked up or kept in police station or judicial custody. It does not mean that he had not been arrested and may claim benefit for not disclosing his technical arrest and then release on bail. However, petitioner was thereafter prosecuted before the Magistrate. Evidence was led, witnesses were examined and cross-examined. It cannot, Therefore, be said that petitioner was oblivious of, or not aware of the case. Rather, it would be seen that when the attestation form was filled up the case was in the final stage as the decision came on 10th October, 2000. It is contended on behalf of the petitioner that he could not understand

the complicated nature of Question No. 13 and other questions in the form, being a metriculate. At the same time, it is sought to be urged that petitioner was advised that the dispute was of a civil nature and hence need not be declared. Further, that soon after he gave the information, he was advised by some other persons that police authorities ought to be informed. This version does not inspire any confidence. It is significant to notice that while the attestation form was submitted on 29th June, 2000, petitioner did nothing although he was soon thereafter advised that authorities ought to be informed. This wisdom of informing the authorities dawned upon the petitioner only after the acquittal on 10th October, 2000, where after he informed. Further by that time the authorities had already received the verification report to this effect.

11. The present case is distinguishable on facts from Sandeep Kumar's case (supra), where the acquittal was prior to filling up of the form and it was an inadvertent omission to mention the same. As regards Commissioner of Police and Anr. Vs. Dhaval Singh (supra), petitioner also cannot draw any benefit from the same. In the cited case, respondent had inadvertently not disclosed the pendency of the criminal case when the form was filled on 21/27 August, 1995. However, before any order of appointment could be issued in his favor and much before the acquittal, he realizing the mistake, informed the petitioner on 15th November, 1995 of this omission. Respondent was subsequently acquitted. The court, in these circumstances, held it to be a case of inadvertent omission and not of any concealment.

12. There is merit in the contention of the respondent. One aspect is the nature of involvement in the case, the seriousness of the offence, which has a bearing on the propensity to crime. The second aspect is with regard to the credibility of the individual and his character and antecedents in this regard. When a candidate, despite a clear warning in bold letters in the beginning of the attestation form, does not disclose facts or particulars of his involvement in a case, and has no reasonable Explanation for the omission, then the respondents are justified in taking action on the same as it impinges upon the credibility and reliability of the candidate. We, Therefore, find the respondent's action in cancelling the candidature to be justified. There is no error or infirmity in the action of the respondents or the order of the Tribunal, calling for interference in the exercise of writ jurisdiction.

Writ petition is, accordingly, dismissed.