
(2009) 02 DEL CK 0301

In the Delhi High Court

Case No : Writ Petition (C) No. 1977 of 2000

Sukhvinder Singh

APPELLANT

Vs

Regional Director and Others

RESPONDENT

Date of Decision : 19-02-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226
Penal Code, 1860 (IPC) — Section 325, 34

Citation : (2009) 02 DEL CK 0301

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : S.N. Kalra and Meenu Kamboj, for the Appellant; Anjana Gosain, for the Respondent

Judgement

Kailash Gambhir, J.

1 . By way of this petition filed under Article 226 of the Constitution of India the petitioner seeks restoration of his service on the post of Assistant Mechanic. Petitioner also seeks directions against the respondent to produce his original service records and the original record of show cause notice/memo issued and the subsequent proceeding, if any, conducted by the respondent against the petitioner for passing the impugned order dated 1.2.2000.

2 . Brief facts of the case relevant for deciding the present petition are as under:

The petitioner was working with Airport Authority of India, Safdarjung Airport New Delhi and was appointed as Assistant Mechanic after clearing the departmental exams on 14.6.1999 and since then he had been working as such. In the beginning, the petitioner got this job on compassionate ground as his late father was working with the respondent authority and after his death he was duly considered for the job on the basis of the application moved by his mother on compassionate ground. On 30.5.1996 he was offered a job of Assistant Mechanic on contract basis under the Employment Assistance Scheme on consolidated

salary of Rs. 1500/- by Dy. Director of Equipment vide letter No. EST-37/96/293-95 and along with the same terms and conditions were also supplied to him. As per the terms and conditions of the letter of offer, he was subjected to medical and police verification which was duly done as per Government norms and finally on 18.7.1996 an acceptance letter was issued to him for joining his duty within fifteen days. In response to the same, on 26.7.1996 he joined his duty as Assistant Mechanic at Electrical and Mechanical Workshop Safdarjung Airport, New Delhi for a period of six months on contract basis and this period was extended and reviewed by the respondent after getting internal opinion. During this period of contract service of the petitioner, certain vacancies of Assistant Mechanic arose which were to be filled up by the Departmental Candidates of Group D category of the respondent authority and the petitioner competed for the said post on 15.9.1998 along with other departmental candidates and was successful in the same. On 21.4.1999 he was called for practical test/interview along with other candidates. On 14.6.1999 he along with others was appointed to the post of Assistant Mechanic and was directed to undergo training for a period of six weeks. Vide letter dated 25.10.1999 the petitioner was again subjected to medical report from Medical Incharge Medical Centre, Airport Authority of India, INA Colony, New Delhi. In the meanwhile, on 10.2.2000 all of a sudden the petitioner received a letter of termination which as per him was completely unconstitutional, illegal, malafide, biased and is without application of mind. Aggrieved by the said act of the respondent authority the petitioner has preferred this petition.

3 . Mr. S.N. Kalra, counsel appearing for the petitioner states that the respondent intentionally did not produce the report regarding police verification made with regard to the character and antecedents of the petitioner in the year 1996. Counsel for the petitioner further submits that the respondent has deliberately not considered the previous record of the petitioner which would have clearly shown that the antecedents of the petitioner were completely clean. Counsel further submits that the order passed by the respondent is in violation of Article 14 and Article 16 of the Constitution of India. Counsel also submits that the principles of natural justice were violated by the respondent as no inquiry was held against the petitioner before taking the said decision of terminating the petitioner from his service. Counsel also submits that the petitioner was given appointment on compassionate basis and he was not found involved in any case of moral turpitude and the case in which an FIR was registered against him was relating to some fight with a neighbor which was later on compromised.

4 . Refuting the said submissions Ms. Anjana Gosain counsel for Respondent No. 1 states that on the expiry of Sh. Jaswant Singh, father of the petitioner, the petitioner had applied for the post of Assistant Mechanic on compassionate grounds and considering his request he was appointed as Assistant Mechanic on contract basis under the Employment Assistant Scheme on compassionate grounds on contract basis on consolidated salary of Rs. 1500/- per month for a period of six months and was posted at Electrical and Mechanical Workshop

Safdarjung Airport, New Delhi. On the expiry of six months further extension continued which, remained till he was offered the regular appointment against a regular post. The petitioner was permitted to appear in the test and later on called for practical test/interview for the post of Assistant Mechanic along with other Group D departmental employees and based on his interview he was selected for the post of Assistant Mechanic and an appointment letter dated 14.06.1999 was issued in his favour. Subsequently, the terms and conditions of the appointment were also issued to the petitioner on 21.6.1999 with the instructions to the concerned General Manager that the petitioner be taken on duty on completion of all the formalities viz. medical fitness and verification of character and antecedents. Pursuant to the said directions, the petitioner was supposed to submit an attestation form and in column 12 thereof the petitioner was required to give certain details with regard to his character and past antecedents. Counsel further submits that in the said column the petitioner deliberately suppressed the fact of his involvement in a criminal case and the respondent came to know about this fact only through the Office of Deputy Commissioner of Police after the same was sent for verification of the information given by the petitioner with regard to his character and antecedents and in the information sent by the DCP it was disclosed that as per the record of Police Station Kotla Mubarakpur, New Delhi he was found involved in FIR No. 279 dated 30.8.1992 u/s 325/34 IPC. It was also informed that the said case was pending trial in the court of Sh. Vinod Kumar Sharma, M.M. Patiala House, New Delhi and the next date of hearing fixed in the case was 16.2.2000. Based on the said concealment of facts by the petitioner, the respondent passed the said order dated 1.2.2000 removing the petitioner from service. Ms. Anjana Ghosh states that the petitioner was expected to truthfully give the information as was sought by the employer and since the said information was deliberately suppressed by the petitioner, therefore, the order passed by the respondent cannot be termed to be either illegal or unjustified.

5 . I have heard counsel for the parties and perused the record.

6 . Indisputably, the petitioner was offered the regular appointment of Assistant Mechanic and he was matriculate. The petitioner was required to fill the attestation form which contained a warning. that furnishing of false information or suppressing of any factual information in the Attestation form would be a disqualification, and is likely to render the candidate unfit for employment under the Government. The said warning given in the form is referred as under:

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

If detained, arrested, prosecuted, bound down, fined, convicted, debarred, acquitted etc. subsequent to the completion and submission of this form, the details should be communicated in immediately to the authorities to when the attestation from has been sent early, failing which it will be deemed to be a

suppression of factual information.

If the fact that false information has been furnished or that thereto has been suppression of any factual information in the attestation form comes to notice at any time during the service of a person his service would be liable to be terminated.

7 . It was not expected of any employee not to give the correct information as was asked by the employer in column No12. There are various columns dealing with the questions with regard to the past antecedents of a person. In all these columns, the petitioner has not truly stated his past antecedents. It is only when the facts were got ascertained by the respondent from the concerned Deputy Commissioner of the area it could be known that the petitioner was involved in a criminal case u/s 325/34 IPC. It is thus admitted case that the petitioner suppressed the said fact from his employer as was sought in the attestation form filled by the petitioner on 27.10.1999. He also did not disclose that the next date fixed before the criminal court was 16.2.2000. The position could have been different, had the petitioner timely realized his mistake and later on submitted the correct facts before the authority. But that is not the case here. No sympathy can be shown to a person especially the person who is seeking an employment based on falsehood. He was supposed to disclose his past antecedents correctly more particularly when due warning was given to such an employee but still the petitioner had the audacity to give incorrect information. It is no more res integra that the High Court while exercising power under Article 226 of the Constitution of India has ample powers to redress the miscarriage of justice whenever the orders of the Executive under challenge are wholly arbitrary, illegal, perverse, irrational or improper. The wide powers under Article 226 of the Constitution are not intended to be used for the purpose of perpetrating illegalities, irregularities or improprieties or for cutting the whole Constitutional scheme of public employment. A party that seeks equity, must come to the court with clean hands. He who comes to the court with false claim, cannot claim equity nor the court would be justified to exercise equity jurisdiction in favour of such a party. In this regard, the Hon"ble Apex Court in Raj Kumar Soni and Another Vs. State of U.P. and Another, observed as under:

It is a fundamental principle of law that a person invoking the extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India must come with clean hands and must make a full and complete disclosure of facts to the Court. Parties are not entitled to choose their own facts to put forward before the Court. The foundational facts are required to be pleaded enabling the Court to scrutinise the nature and content of the right alleged to have been violated by the authority.

8 . No indulgence can be shown to such a petitioner while exercising the jurisdiction under Article 226 of the Constitution of India. Dismissed.