

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 09.07.2012

+ **W.P.(C) 3945/2012**

GOVT. OF NCT OF DELHI AND ORS

... Petitioners

versus

MANJEET SINGH

... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr S. P. Sharma with Dr Ashwani Bhardwaj.

For the Respondent : Mr Sachin Chauhan.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The order dated 07.03.2012 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, in Original Application No.2687/2011 is under challenge in this Writ Petition which has been filed, inter-alia, on behalf of Government of NCT of Delhi.

2. The facts of the case are that the respondent Manjeet Singh had applied for the post of Constable (Executive) with the Delhi Police in the year 2009. His

application form was submitted on 14.11.2009. After he had submitted the said application for the said post a criminal case bearing FIR No.73/2010 dated 06.03.2010 came to be registered at PS Julana, Haryana under Section 302/34 IPC. However, as it was later found that the victim had died due to a heart attack, the offences were converted to Section 323/325/34 IPC. Thereafter the respondent Manjeet Singh furnished his attestation form on 19.05.2010 wherein he did not mention his alleged involvement in the said criminal case. It is the case of the respondent that since no summons were issued to him nor was he ever questioned by the police in connection with the said FIR, he was not at all aware of the criminal case having been registered in which his name figured. It is because of this, that the respondent had not mentioned the alleged involvement in the said criminal case in the attestation form.

3. Subsequently, on 09.06.2010 after completion of the investigation the charge sheet was filed by the investigating agency on 09.06.2010. In that, the said respondent Manjeet Singh was not shown as an accused and had not been sent up for trial.

4. Pursuant to the application and attestation form and other tests, which the respondent had cleared, the said respondent was offered employment and he joined as Constable (Executive) with the Delhi Police on 12.06.2010. Subsequently, even the criminal case which went in for trial resulted in acquittal

of all the persons who were tried. It is clear from the judgment and the order dated 18.01.2011 passed by the Trial Court that the respondent Manjeet Singh was not even an accused before the said Court, no charges having been framed in respect of him. Subsequently, on 12.01.2011 a Show Cause Notice was issued to the said respondent purportedly under Rule 5(1) of the Central Civil Service (Temporary Services) Rules, 1965. A reply was submitted by the respondent Manjeet Singh on 16.03.2011 wherein he had mentioned that he was not at all aware of the criminal case against him and in any event he was not even an accused in the same. When the matter was taken up for trial no charges were framed against him and, therefore, the said criminal case cannot be taken as a circumstance for denying him the opportunity of employment. In any event, he submitted that the persons who were sent up for trial were also acquitted by the Trial Court on 18.01.2011.

5. Pursuant to this, by order dated 26.04.2011 issued by the petitioner, the Show Cause Notice for termination issued on 12.01.2011 was withdrawn on “administrative grounds”. Despite the said withdrawal, about two months later, a termination order dated 15.06.2011 was issued whereby the services of the respondent Manjeet Singh were terminated purportedly in exercise of the powers under Rule 5(1) of the said Rules.

6. Being aggrieved by the termination order, respondent preferred the said

Original Application before the Tribunal which has allowed the same. The Tribunal in arriving at that conclusion made the following observations:-

“Having heard the learned counsel representing the parties, we are of the firm opinion that the applicant has been meted with complete injustice. It is the positive case of the applicant that he was never called by the police, there was no interrogation, no arrest, and thus no trial. It is admitted position now that the name of the applicant was sent only in column number 2, which would mean that the accused is not to be tried. It is not the case of the respondents as well that even though not sent for trial by police, on statements made by some of the witnesses during trial, the applicant might have been summoned by the court. It is also admitted that even though the FIR might have been initially registered u/s 302/304 IPC, but the trial against the accused was only u/s 323/325/334 IPC, and that the victim, as per medical opinion, had died because of heart attack. The accused tried in the offences aforesaid were acquitted on 18.01.2011. Even though, counsel representing the applicant has placed reliance upon two judgments, one of the Hon’ble Supreme Court in Civil Appeal No.1430 of 2007 in the matter of ***Commissioner of Police, Delhi & others v. Sandeep Kumar***, decided on 17.03.2011, and the other of the High Court of Delhi in WP(C) No.8223/2011 in the matter of ***Rajesh Kumar v. Commissioner of Police & another***, decided on 22.11.2011, to state that non-disclosure of criminal involvement would not be fatal in seeking public employment for life, but in the present case we find that there was no concealment of facts on the part of the applicant. Mere registration of FIR against a person cannot be said to be his involvement in a crime. Even if it is so, the applicant was not in the know that he had been named by somebody in the FIR. When the applicant was not questioned by police, nor interrogated, nor arrested, nor sent for trial, nor even summoned by the concerned trial court, he could well say that he was not involved in any criminal case.”

7. Resultantly, the Tribunal held that the order dated 15.06.2011 was illegal and that it had caused great deal of harm and injustice to the respondent and consequently the order of termination dated 15.06.2011 was set aside by the Tribunal and had directed the petitioner to reinstate the respondent with all consequential benefits which includes seniority as also the back wages. Costs of ₹10,000/- was also awarded in favour of the respondent and against the petitioner.

8. We are in agreement with the reasoning adopted by the Tribunal. We feel that even a case of concealment cannot be made out against the respondent Manjeet Singh, inasmuch as, there is nothing on record to show that Manjeet Singh was at all aware of the fact that his name had been mentioned in the said FIR. In any event as per the investigation conducted by the investigating agency, the said Manjeet Singh was not regarded as an accused and was not, in any event, sent up for trial. Thus, the alleged involvement in respect of the criminal case could not at all have been a ground for termination of his services. Apparently, that was the only ground on which the services of the respondent Manjeet Singh were terminated. Therefore, we do not interfere with the impugned order passed by the Central Administrative Tribunal, except to the extent that the respondent Manjeet Singh shall not receive any wages for the period during which he has not worked. The order passed by the Tribunal as modified by this Court shall be

complied with within three weeks.

9. The Writ Petition stands disposed of.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

JULY 09, 2012

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