

Jasvir Singh Vs. Director General Indo Tibetan Boarder Police (itbp

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Court : Delhi

Decided On : Oct-28-2013

Judge : Gita Mittal

Appellant : Jasvir Singh

Respondent : Director General Indo Tibetan Boarder Police (itbp

Judgement :

\$~15 * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 5631/2013
Date of decision:

28. h October, 2013 % JASVIR SINGH Petitioner Through: Dr.Sriniwas Rao & Mr.Vivek Sheel, Advocates. versus DIRECTOR GENERAL INDO TIBETAN BOARDER POLICE (ITBP) FORCE & OTHERS Respondents Through: Ms.Barkha Babbar, Adv. for UOI CORAM: HON'BLE MS. JUSTICE GITA MITTAL HON'BLE MS. JUSTICE DEEPA SHARMA GITA MITTAL, J.

(Oral) 1. By way of the present writ petition the petitioner has assailed the order dated 18th December, 2012 whereby the respondents terminated his service as a Constable (General Duty) with the Indo Tibetan Border Police (ITBP) during his probation.

2. The petitioner was recruited pursuant to an offer of appointment dated 12th December, 2011 which contains the following caution:

If any declaration made or information furnished by you found false or it is found that you have suppressed any vital information then you will be liable to be terminated from the service or any action which will be deemed suitable by the Govt.

3. After the petitioners initial recruitment, the respondents got his character verification done as per the rules by the District Police Officer concerned. Information was received from Deputy Commissioner of Police Kaithal , Haryana to the effect that Case No.104 dated 24th June, 2009 under Section 379 of the Indian Penal Code (IPC) was pending against the petitioner in the court of Kaithal. This case was pending at the time of receipt of the said character verification report and had not been disclosed by the petitioner in the form which was required to be filled by him.

4. Learned counsel for the petitioner points out that furnishing of false information in the recruitment process renders a person to criminal penalty under Section 25 of the ITBP Act, 1992. At the same time, the respondents are empowered under Rule 22 of the ITBP Rules, 1994 to terminate the services on the ground of furnishing of false information at the time of appointment to the force.

5. It is undisputed that the petitioner had failed to inform his employer about the pendency of the serious criminal case against him. Before us, an effort has been made to explain the concealment of such material fact by stating that the petitioner had filled up what was dictated by his seniors at the time of filling the form. This explanation at the stage of filing of the writ petition has been taken for the first time and is misconceived.

6. The respondents have stated that they had complied with the requirements of law and principles of natural justice inasmuch as before proceeding against the petitioner, one month notice under Rule 22 of the ITB Police Rules, 1994 was issued and served upon the petitioner seeking an explanation from him with regard to furnishing false information while recruitment. Accordingly, the respondents passed an order dated 18th December, 2012 terminating the services of Sh.Rajendra Kumar, Sh.Pawan Kumar and the petitioner. The above narration would show that the respondents have given an opportunity to the petitioner to

explain the circumstances in which he had furnished false information. The petitioners reply was duly considered by the respondents and was found unfavourable. Rule 22 of the ITB Police Rules, 1994 postulates nothing further. The respondents have passed the order dated 18 th December, 2012 in compliance of the principles of natural justice.

7. Learned counsel for the petitioner has contended that the petitioner was acquitted in the criminal trial by a judgment dated 14th March, 2013 passed by the Chief Judicial Magistrate. It is not the conviction in a criminal case which weighs for the writ petitioner in passing the order dated 18th December, 2012. The termination rests only on the ground that the petitioner suppressed vital information and in fact furnished false information to the effect that he had not been implicated in a criminal case.

8. The impugned order dated 18th December, 2012 also points out that the petitioner who had been implicated in a case registered for commission of an offence under Section 379 of the IPC, he was tried for commission of an offence under Section 411 of the IPC i.e. for possession of stolen property.

9. The impugned order also notices that the Ministry of Home Affairs of the Government of India notified Policy Guidelines for considering cases of candidates against whom criminal cases are pending and their appointment in Central Armed Police Forces. The Government of India has taken a considered view and decided that categorised cases which may be considered undesirable for appointment in the Central Armed Police Forces includes cases concerned with serious offences/moral turpitude in which the person concerned may be considered for recruitment.

10. At Serial no.9 of the Category of cases considered serious offences or moral turpitude, the Government of India has listed Offences against Property under Section 379 to 462 of the IPC. It is therefore pointed out that from this perspective the petitioner could not have been recruited.

11. We are not going into this aspect any further inasmuch as it is not the petitioners implication in the case which has rendered him liable for the impugned

action, but the fact that he served false information. We are not impressed with the explanation sought to be rendered at this stage that the information was wrongly furnished. The petitioner was under trial in the year 2013 and was fully aware of the said fact. The petitioner ought to have furnished such information and left it to the judgment of the respondent as to whether he was to be recruited or not. He failed to provide such information in the instant case.

12. In view of the above discussion, we find no merit in the writ petition, which is dismissed. GITA MITTAL, J DEEPA SHARMA, J OCTOBER28 2013 rb

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