

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7353-7354 OF 2009

RAJESH KUMAR

Appellant(s)

VERSUS

UNION OF INDIA THROUGH CHIEF OF ARMY STAFF & ORS.

Respondent(s)

O R D E R

These appeals have been filed against the judgments and orders dated 20th August, 2008 passed by the High Court of Delhi at New Delhi in Writ Petition (Civil) No. 1549 of 1997 and order dated 29th September, 2008 passed in Review Petition No. 341 of 2008 in W.P. (Civil) No. 1549 of 2008 passed in Review Petition No. 341 of 2008 in W.P. (Civil) No. 1549 of 2008 by the High Court of Delhi.

The appellant herein, was selected and appointed as Sub-Inspector in Delhi Police Service. Appointment letter was issued on 28.01.1994. He was allowed to join Delhi Police Service as Sub-Inspector on 10.02.1994. While undergoing A, B, C & D Course in South-west District, respondents have received a complaint on 12.04.1996 stating that the appellant was a deserter from the Army and after he deserted Army in 1992, he was declared as absconder. On receipt of such complaint, respondents have addressed a letter to SHO / Inderpuri to enquire about the antecedents of the appellant and it was confirmed that the appellant was a deserter from the Army w.e.f. 31.07.1993. Further, It is also the case of the respondents that in the attestation form which was duly filled by the appellant in his own handwriting at the time of entry into

service, in column No. 10, he has mentioned as Not Applicable (NA). It is the case of the respondents that though the appellant has joined Army service in 1992, he has not disclosed about his earlier employment in Army and suppressed the said information in the attestation form in column No.10 by not furnishing correct information. During the probation period, respondents have terminated the service of the appellant by order dated 14.08.1996. The said order reads as under:-

"In pursuance of the proviso to sub-rule (i) Rule 5 of the Central Civil Services (Temporary Service) - 1965, I, S. K. Jain, F.R.R.O. / Deputy Commissioner of Police, by terminate forthwith the services of PSI Rajesh Kumar, D/3390 and direct that he shall be entitled to claim a equivalent to the amount of his pay plus allowances for the of notice at the same rates at which he was drawing immediately before the termination of his service. He is not in possession of any Government accommodation."

The learned counsel appearing for the appellant has strenuously contended that he was not given any opportunity in the inquiry and the impugned order is passed by conducting inquiry behind his back. It is submitted that his services were terminated alleging that he was a deserter from the Army, as such, respondents ought to have conducted inquiry by giving opportunity before his termination. It is submitted that though he has joined Army service in the year 1992, he was permitted orally to join Delhi Police Service.

On the other hand, it is contended by learned counsel appearing for the respondents that the impugned order is an order

terminating service of the appellant during his probation. It is the case of the respondents that as the order impugned is a termination simplicitor, there was no need to conduct an inquiry, as much as, the service of the appellant was not confirmed.

From a perusal of the order dated 14.08.1996, terminating the service of the appellant makes it clear that the said order is passed in exercise of power under proviso to sub-rule (i) of Rule 5 of the Central Civil Services (Temporary Service) Rules of 1965. It is clear from the order that it is only a termination simplicitor without any allegation against the appellant. During the period of probation, it is always open to the employer to verify the antecedents of a temporary appointee, in case any information is received by way of complaint or otherwise. Merely because the antecedents were verified by addressing a letter to the SHO/ Inderpuri, it cannot be said that respondents have conducted regular inquiry, so as to give an opportunity to the appellant. In absence of any allegation in the impugned order, the order of termination dated 14.08.1996 cannot be said to be an order casting stigma on the appellant. Before the declaration of probation, on the ground that the appellant has not disclosed particulars of earlier employment, it is always open for the respondents to terminate his temporary service without issuing any notice.

Though the learned counsel for the appellant placed reliance on the judgment of this Court in the case of *COMMISSIONER OF POLICE & ORS. V. SANDEEP KUMAR*¹, but in view of the subsequent judgment of

1 (2011) 4 SCC 644

this Court in the case of *AVATAR SINGH V. UNION OF INDIA & ORS.*², a Three Judge Bench of this Court has held that in the event of any suppression or on submitting false information, it is always open for the employer to cancel the candidature or terminate service.

Para 32 of the said judgment reads as under:-

"32. No doubt about it that once verification form requires certain information to be furnished, declarant is duty-bound to furnish it correctly and any suppression of material facts or submitting false information, may by itself lead to termination of his services or cancellation of candidature in an appropriate case. However, in a criminal case incumbent has not been acquitted and case is pending trial, employer may well be justified in not appointing such an incumbent or in terminating the services as conviction ultimately may render him unsuitable for job and employer is not supposed to wait till outcome of criminal case. In such a case non-disclosure or submitting false information would assume significance and that by itself may be ground for employer to cancel candidature or to terminate services."

For the aforesaid reasons and in view of the judgment of this Court in case of *AVATAR SINGH V. UNION OF INDIA & ORS.*², we do not find any merit in this appeal, so as to interfere with the impugned order, passed by the High Court. Appeals are dismissed, with no order as to costs.

.....J.
(R. SUBHASH REDDY)

.....J.
(HRISHIKESH ROY)

New Delhi;
November 11, 2021.

² (2016) 8 SCC 471

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal Nos. 7353-7354/2009

RAJESH KUMAR

Appellant(s)

VERSUS

UNION OF INDIA THROUGH CHIEF OF ARMY STAFF & ORS. Respondent(s)

Date : 11-11-2021 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE HRISHIKESH ROYFor Appellant(s) Mr. Anshu Mahajan, Adv.
Mr. Karan Arora, Adv.
Mr. Gaurav Kejriwal, AORFor Respondent(s) Mr. Jayant Sud, ASG
Mr. Nachiketa Joshi, Adv.
Mr. Divyansh Rathi, Adv.
Mr. Mohd. Akhil, Adv.
Mr. Tejas Patel, Adv.
Mr. Harish Nadda, Adv.
Mr. Randeep Sachdeva, Adv.
Mr. Arvind Kumar Sharma, AORMr. R. Balasubramanian, Sr. Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Rajan Kr. Chourasia, Adv.UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of signed order.

Pending application(s), if any, shall stand disposed of.

(NEETA SAPRA)
COURT MASTER(DIPTI KHURANA)
COURT MASTER

(Signed order is placed on the file)