

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL  
BIKASH BHAVAN, SALT LAKE CITY  
K O L K A T A – 7 0 0 0 9 1**

**Present:-**

**The Hon'ble Mrs. Urmita Datta (Sen)  
MEMBER (J)**

**-AND-**

**The Hon'ble Mr. P. Ramesh Kumar,  
MEMBER( A )**

**J U D G E M E N T**

**-of-**

**Case No. OA-674 of 2016**

**Ashok Chowdhury ..... Applicant.**

**-Versus-**

**State of West Bengal & Others....Respondents**

**For the Applicant : - Mr. Dibyendu Narayan Roy,  
Mr. Gourav Halder,  
Mr. Ranjit Kr. Mondal,  
Learned Advocates.**

**For the State Respondents : - Mr. Goutam Pathak Banerjee,  
Mr. Biswa Priya Roy,  
Learned Advocates.**

**Judgement delivered on: 14<sup>th</sup> August, 2018.**

**The Judgement of the Tribunal was delivered by:-  
Hon'ble Urmita Datta (Sen), Member (J).**

**OA 674 OF 2016****J U D G E M E N T**

The instant application has been filed praying for following order:-

8.a). An order directing the concerned respondent authorities to forthwith cancel/revoke/rescind/withdraw the impugned discharge order vide D.O. No. 58 dated 08.02.2014, being Annexure-C to the instant original application issued by the Deputy Commissioner of Police, 4<sup>th</sup> Battalion, Kolkata Armed Police, after cancelling, an appropriate order be issued reinstating thereby your applicant in service with consequential benefits.

b) An order directing the concerned respondent authorities to forthwith reinstate your applicant in service after cancelling the impugned order vide D.O. No. 58 dated 08.02.2014, taking into account the fact of acquittal from criminal case being Sessions Case No. 06/2015, Sessions Trial No. 07 (02)/2015 (Charge U/s 147/148/149/427/436/379 of I.P.C.

c) An order do issue directing the respondent authorities to consider the representation dated 18.03.2016 made before them taking into account the fact of acquittal from the criminal case so initiated against your applicant, after giving an opportunity of being heard.

d) An order do issue directing the respondent authorities to pay the arrear salaries after

reinstating in service and cancelling the order of discharge.

- e) An order do issue directing the respondent authorities to transmit all records pertaining to the instant original application before this Hon'ble Tribunal so that conscionable justice can be done.
- f) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protect the right of the applicant and in the ends of justice.

2. (i) According to the applicant, he was appointed as Police Driver in Kolkata Police w.e.f. 22.02.2013 (Annexure-A). However, before joining the Police Deptt. he was implicated in a criminal case being No. 282 of 2010 dated 02.12.2010 and was subsequently granted bail by the Competent Court (Annexure-D). In the meantime he joined the police force in the year 2013 but unfortunately, he was discharged from the service vide D.O. No. 58 dated 08.02.2014 (Annexure-C). Being aggrieved with he had filed one OA being No. 367 of 2014. However, this Tribunal vide its order dated 28.09.2015 dismissed the application.

(ii) Subsequently, the applicant was acquitted from the aforesaid Session Case No. 6/2015, Sessions Trial No. 07(02)/2015 (Annexure-E) by the Competent Court of Law. After the order of acquittal from the aforesaid case, the applicant made a representation before the concerned authority on 18.03.2016 admitting his guilt and prays for showing mercy towards him by way of reinstating him in the service after setting the order of discharge from service. (Annexure-F).

(iii) As per the applicant, he was scared of the fact of losing job which prompted him to put mark "NO" in column No. 13 of the P.V.R. but did not have any mal-intention for suppression in the

column No. 13 of P.V.R. Since the authority has not considered his representation, he has filed this instant application.

3. The respondents have filed their reply, wherein it has been submitted that the applicant had earlier approached this Tribunal challenging the said discharge order dated 07.02.2014, which was dismissed by this Tribunal on 29.08.2015. Therefore, though subsequently he was acquitted in the criminal case but that does not give rise any fresh cause of action as the applicant was discharged/dismissed from service on the ground of willful suppression of fact of his involvement in a criminal case.

4. The applicant has filed one rejoinder to the said reply, wherein he has more or less reiterated the earlier submission made by him in the original application. However, he has further submitted that though the respondents had discharged him from service on the ground of suppression of involvement in the aforesaid criminal case at the time of submission of PVR however, there was no intention or willful/deliberate suppression on the part of the applicant.

The counsel for the applicant has referred two citations reported in (i) Laws (SC)-1988-2-81 dated February, 08, 1988 T.S. Vasudavan Nair Vs. Director of Vikram Sarabhai Space Centre;

(ii) (2011) 4 SCC 644 Commissioner of Police and Others Vs. Sandeep Kumar.

5. Heard the parties and perused the records. It is noted that the applicant was discharged from service w.e.f. 08.02.2014 for his willful suppression of the fact of his involvement in a criminal case i.e. Manikchak P.S. Case No. 282 /10 during the time of P.V.R.

Being aggrieved the applicant approached this Tribunal in OA 367 of 2014, which was disposed of vide judgement dated 28.09.2015 holding inter alia :-

“7. We have carefully considered the submission of both the sides and have also gone through the documents and materials on record. From the materials available on record, it is clear that the applicant herein while submitting the Police Verification Roll suppressed the fact of his having been charge sheeted by the police in connection with a criminal proceeding in Manikchak P.S. Case No. 282/10 dated 02.12.2011 under section 147/148/149/427/436/379 of I.P.C., 1860 and G.R. No. 4112/10 dated 26.01.2011. It is not a fact that he was discharged from service on the grounds of pendency of a criminal proceeding against him, rather he was discharged for furnishing false information in response to a specific query in the Police Verification Roll by willfully and deliberately suppressing information relating to his being charge sheeted by the police in connection with a criminal proceeding. Such willful and deliberate suppression is manifest on the record and it is on this ground that he was discharged from service. In terms of notification No. 1083/PL/PI/8C-7/05 dated 20<sup>th</sup> March, 2006, it was within the competence of the respondent authorities concerned to discharge him from service if he is considered unsuitable for the post. The furnishing of false information by the applicant by willful and deliberate

suppression of information relating to his involvement in a criminal case, in our view, constitutes sufficient ground to hold that he failed to live up to the standards of integrity expected of a member of the police force. There is, therefore, no illegality or irregularity in the impugned order discharging the applicant from service for having suppressed the fact regarding his involvement in a criminal case while submitting the police verification roll. The prayer of the applicant to quash the said order is, therefore, devoid of any merit and is liable to be set aside.

8 In view of the above, having regard to facts and circumstances of the present case and the documents and materials on record, we are of the opinion that there is no illegality or irregularity in the impugned order dated 08.02.2014 discharging the applicant from service for having suppressed the fact regarding his involvement in a criminal case while submitting the Police Verification Roll. The application, therefore, fails. We hereby direct that the present application before us, being devoid of any merit, is hereby dismissed.

9. The application is thus disposed of.”

Thereafter, as in the said criminal case, the applicant was acquitted, he had made a representation on 18.03.2016 to the Commissioner of Police, Kolkata through letter dated 18.03.2016 and had asked for revocation of order of discharge. However, as he received no response from any of the

respondent authority, being aggrieved he has filed this instant application.

6. From the above facts and circumstances as well as perusal of the earlier order of this Tribunal it is clear that the applicant earlier also had challenged the same order of discharge. However, this Tribunal had made it clear that the applicant was not discharged from service due to pendency of any criminal case against him but for willful suppression of the fact during the Police Verification Roll. Therefore, after being acquittal from the criminal case, the issue remains same before us as in our opinion also the applicant was not discharged from service on account of any criminal proceeding against him rather he was discharged from service on the ground of suppression of fact before the authority at the time of P.V.R., which has been admitted by the applicant himself in his petition as well as representation.

7. Therefore, since the said issue had already been decided by this Tribunal in earlier occasion and no appeal has been preferred against the said order, it reaches finality. Therefore on the self same cause of action, the instant application cannot be entertained being barred by resjudicata. Thus the judgments referred by the applicant has no relevancy at present situation. Accordingly, the OA is dismissed being barred by resjudicata. No order as to costs.

**P. RAMESH KUMAR**  
**MEMBER (A)**

**URMITA DATTA(SEN)**  
**MEMBER (J)**