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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(C) 1859/2010**

EX CT SUNIL KUMAR

..... Petitioner

Through : Mr. U. Srivastava, Adv.

versus

UOI AND ORS

..... Respondent

Through : Mr. Anuj Aggarwal, Adv.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

18.10.2010

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1. The petitioner assails the order dated 15th January, 2008 issued by the respondent under Rule 5(1) of the Central Civil Services (Temporary Services) Rules, 1965; order dated 15th February, 2008 confirming the said order of termination, order dated 23rd July, 2008 February, 2009 issued by the Appellate Authority as well as order dated 4th February, 2009 informing the petitioner of rejection of the Revision Petition.

2. The undisputed facts are in a narrow compass. The writ petitioner was enrolled on 8th May, 2006 in the Central Reserve Police Force ('CRPF' for brevity) as a Constable. After completion of all the requisite formalities, the petitioner completed his basic training in

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physical file have been compared and
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file and no page is missing.

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189th Battalion and reported to his unit on 24th July, 2007. The respondents took steps for effecting the verification roll of the petitioner and in the Form-CRPF 25 which was sent to the District Magistrate, Haridwar, Uttaranchal for verification of his character and antecedents. It appears that the Civil Police Verification Report was received by the concerned authorities from the Battalion under the cover of communication dated 13th December, 2007 which stated that the SHO, Khanpur had informed that as per the records of the Police, a criminal prosecution case No.49/2004 under Sections 147/148/149/353/336/307 of IPC and Section 7 of the Criminal and Amendment Act No.49B/04 Sections 147/148/149/323/307/504/506 stood registered at Police Station Haza against the petitioner for which charge sheet had already been filed. A view was taken that while filling up Column No.12 A & B of the verification roll, the petitioner had not disclosed this information and the conclusion was drawn that the petitioner had deliberately concealed the said facts. As such, for concealing the facts, petitioner was served one months notice for termination of his services vide office order dated 15.01.2008 under the provision of Rule-5(1) of the CCS(TS) Rules-1965. The petitioner's services were accordingly terminated with effect from 17th February, 2008(FN).

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3. The petitioner challenges this order of termination of service by way of preferring an appeal which was rejected by an order dated 23rd July, 2008 and his Revision Petition to the Director General of Police of CRPF at New Delhi, was rejected by the Director General on the ground that the same was without any merit. The same was communicated to the petitioner vide letter dated 4th February, 2009.

4. The only question which arises for consideration in the present matter is as to whether the petitioner was guilty of deliberately concealing the information while filling up Column No.12 A & B of the verification roll. The petitioner has submitted that from August, 2003 to July, 2005, he was a student at the ITI Rampur and was living in a hostel. The place of his education was located at 150 kms. from his residence. A certificate from the concerned institution to this effect has been placed on record.

5. Learned counsel for the petitioner has drawn our attention to the copy of the First Information Report which has been procured by the petitioner after the passing of the impugned orders. As per this complaint, it relates to an alleged incident which occurred on 30th September, 2004 at 10:30 a.m. at Govardhanpur where some elections relating to the executive committee of Sadhan Sarkari Samiti were in progress. The petitioner would submit that the complaint came to be

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lodged on account of hindrance by some mischievous elements at the place of election.

6. The petitioner has contended that he was completely unaware of having been falsely implicated in the alleged incident and that he was never arrested in the matter. In any case, with effect from 8th May, 2006, the petitioner was serving with the respondents. He claims that he learnt about the implication in the criminal case only from the respondents and the impugned orders.

As per the writ petition, on a further consideration of the matter, the State of Uttranchal took a decision to withdraw the prosecution and the petitioner stands acquitted from the charge-sheet by an order dated 3rd June, 2009 passed by the Court of District & Sessions Judge, Haridwar.

7. So far as the ignorance about the registration of the case and the implication is concerned, the same is also suggested by the fact that the petitioner has, for the first time, sought bail in the said case after his services were terminated as is manifested from the order dated 7th April, 2008 passed by the Districtt & Sessions Judge/Haridwar, copy whereof has been placed on record.

8. Perusal of the counter-affidavit would show that other than a bald submission that the petitioner had concealed the information with regard to registration of the case in Column 12A & B of the verification

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roll, there is no consideration of the petitioner's contention that he was unaware of the registration of the case by the respondents. The petitioner's contention to this effect appears to be clearly undisputed. Such being the position, the petitioner could not have been expected to disclose a fact he had no knowledge about. In such background, there is no basis for arriving at the conclusion that the petitioner had deliberately concealed any fact.

In view of the above, it is evident that the impugned orders dated 15th January, 2008; 15th February, 2008; 23rd July, 2008 and 4th February, 2009 are premised on a totally erroneous assumption of culpability of the petitioner which is wholly untenable.

We accordingly direct as follows:-

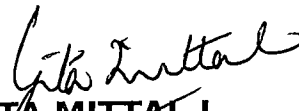
- (i) the order dated 15th January, 2008 issued by the respondent under Rule 5(1) of the Central Civil Services (Temporary Services) Rules, 1965; order dated 15th February, 2008 confirming the said order of termination, order dated 23rd July, 2008 February, 2009 issued by the Appellate Authority as well as order dated 4th February, 2009 informing the petitioner of rejection of the Revision Petition are hereby set aside.

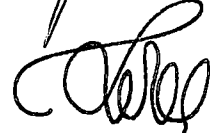
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(ii) The petitioner is directed to be reinstated
in the service with immediate effect.

The order of compliance of the above directions shall be passed
within a period of eight weeks from today.

This writ petition is allowed in the above terms.


GITA MITTAL, J



J.R. MIDHA, J

OCTOBER 18, 2010
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