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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4983/2010**

EX RECTT. AMIT 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

1. The petitioner assails the Appellate order dated 26th September, 2007 issued by the respondent under Rule 5(2) of the Central Civil Services (Temporary Services) Rules, 1965 confirming the order of termination dated 16th April, 2007.

2. The undisputed facts are in a narrow compass. The writ petitioner was enrolled on 1st December, 2006 in the Central Reserve Police Force ('CRPF' for brevity) as a Constable. The respondents took steps for effecting the verification roll of the petitioner 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 15th of March, 2007 which stated that the SHO,

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Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.



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 Khanpur against the petitioner for which charge sheet had already been filed. On this, a view was taken by the respondents 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 16th April, 2007 under the provision of Rule-5(1) of the CCS(TS) Rules-1965. The petitioner's services were accordingly terminated with effect from 16th May, 2007(FN).

3. The petitioner challenged this order of termination of service by way of preferring an appeal which was rejected by an order dated 26th September, 2007.

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) & 12(B) of the verification roll.



5. Learned counsel has drawn our attention to the copy of the First Information Report which has been filed in a similar W.P.(C) being No. 1859/2010 which is listed today. 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 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 1st December, 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 petitioner, on a further consideration of the matter, the State of Uttaranchal has since taken 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 23rd April, 2007 passed by the High Court of Uttrakhand as per the writ petition

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 12(A) & 12(B) of the verification 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 or justification for arriving at the conclusion that the petitioner had deliberately concealed any fact.

In view of the above, it is evident that the impugned order passed in Appeal dated 26th September, 2007, and the order of termination dated 16th April, 2007 are premised on a totally erroneous assumption of culpability of the petitioner which is wholly untenable.

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We accordingly direct as follows:-

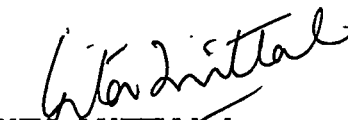
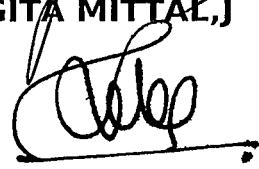
(i) order of termination dated 16th April, 2007 as well as the order dated 26th September, 2010 issued by the respondent under Rule 5(2) of the Central Civil Services (Temporary Services) Rules, 1965; confirming the said order are hereby set aside and quashed .

(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.

Lasti. 


GITA MITTAL, J

J.R. MIDHA, J

OCTOBER 18, 2010
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