

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Delivered On: 14<sup>th</sup> February, 2011*

+ **W.P.(C) 7583/2010**

KULDEEP KUMAR ..... Petitioner  
Through: Mr.R.M.Tewari, Advocate

versus

UNION OF INDIA & ORS. .... Respondents  
Through: Mr.Abhishek Goyal, Advocate for  
Mr.B.V.Niren, CGSC for UOI

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MR. JUSTICE SURESH KAIT**

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

**PRADEEP NANDRAJOG, J.**

1. Born in a village on 7.6.1985, at the young age of 16 years, the petitioner, his brother Sunil and father Palturam were named as accused for having committed an offence punishable under Section 452/323/504/506 IPC, when the wife of the younger brother of his father lodged a complaint with the police that Palturam and his two sons i.e. Sunil and the petitioner had barged into her house, abused her and threaten to kill her family members and that her son Kiran Kumar was beaten with an iron rod.

2. Unfortunately for the petitioner his lawyer seems to be ignorant of the Juvenile Justice (Care & Protection of Children)

Act 2000 and took no defence of the petitioner being a juvenile. Trial continued. Vide judgment and order dated 18.7.2003, the petitioner, his father and brother were acquitted. It is not that the witnesses turned hostile. The Court did not believe the prosecution witnesses.

3. A perusal of the decision rendered by the Court of the Judicial Magistrate at Roorkee has traces of the petitioner, his father and his brother being ensnared in the clutches of the law; by exaggerating a trivial family feud. We say so for the reason the family members who had deposed against the accused were not believed. The decision shows that exaggerated versions and contradictions were being stated before the Court.

4. Be that as it may that is not the issue. The issue is of the petitioner seeking employment as a Constable with ITBP. He was required to fill-up a verification role and replied in the negative pertaining to column No.12(a) and 12(b) of the verification role wherein information sought was as under:

- (a) Have you ever been arrested, prosecuted, kept under detention or bound down/fined, convicted by a court of law for any offence, or debarred/disqualified by any Public Service commission from appearing at its examination/selections or debarred from taking any examination/rusticated by any University or any other educational authority/Institution?
- (b) Is any case pending against you in any court of law/University or any other educational authority/Institution at the time of filling up this Verification Roll?

If the answer to (a) or (b) is 'Yes', full particulars of the cases, arrest, detention, fine, conviction, sentence etc. and the nature of the case pending in the court/University/educational authority etc. at the time of filling of this form should be given."

5. The form was filled-up on a date which is not clearly emerging, but it was a date in the month of July 2009.

6. What has happened is obvious. Since the petitioner answered 'No' against the information sought vide Column No.12(a) and for the reason he was prosecuted for having committed offence punishable under Section 452/323/504/506 IPC, notwithstanding his being acquitted at the criminal trial, the department has taken a view that the petitioner is guilty of furnishing false information to hide his past and this has entailed the action of the respondents in terminating the employment of the petitioner.

7. A perusal of the information sought vide column No.12(a) would reveal that under one question multifarious information has been sought and the complex one question can be split into following questions:

- (i) Have you been arrested for any offence?
- (ii) Have you been prosecuted for having committed any offence?
- (iii) Have you been detained, bound down or fined by a court of law for having committed an offence?
- (iv) Have you been convicted by a court of law for having committed an offence?
- (v) Have you been debarred/disqualified by any Public Service commission from appearing at its examination/selection?

(vi) Have you been debarred from taking any examination by any university or an educational Institution?

(vii) Have you been rusticated by any University or any educational Institution?

8. Suffice would it be to state that the petitioner was obliged to respond by informing that he had been arrested as also prosecuted by a court of law for having alleged to have committed an offence. But, the petitioner has not done so.

9. It is unfortunate that the pleadings in the writ petition are akin to Mufasil pleadings and for which we do not blame the petitioner, but certainly would express our displeasure at the laconic pleadings we are noticing in virtually every second case which is being filed before us.

10. Meaningfully read and as we understand, what the petitioner intends to plead is that a false case was registered against him and his father and brother and since on the date when he filled-up the verification role he was not facing any criminal trial, the alleged incident being 8 years old i.e. dated 26.10.2001; and he being honourably acquitted on 18.7.2003, he was mislead, in view of the complexity of the question, by informing in the negative.

11. We note that in an unreported decision of the Supreme Court dated 24.11.2010 deciding CA No.9913/2010 Daya Shankar Yadav Vs. UOI & Ors. a similarly worded complex question was held to be capable of being misunderstood and the view taken was that in such situation a wrong answer would not entitle the employer to dismiss the employee.

12. But, we may hasten to add that as in the instant case in the said case the Hindi version of the question was found to be simple, clear and straightforward. Since the appellant therein had read and answered the verification role in Hindi, the Supreme Court did not grant benefit of any confusion to the appellant before it.

13. In the instant case we find that the petitioner has furnished the relevant information in English and has written 'No' pertaining to information sought vide Column No.12(a) and 12(b). Similarly, we find that the form has been filled-up in English and all information has been provided in English.

14. Accordingly, we hold that the petitioner would be entitled to relief in view of the decision of the Supreme Court in the Daya Shankar Yadav's case (supra) and additionally for the fact that the alleged incident took place in the year 2001; petitioner was acquitted in the year 2003; he was aged 16 years when the incident took place; he filled-up the form in the year 2009 after 8 years of the incident and 6 years of petitioner being acquitted. It is apparent that the petitioner had only hazy memories in his mind and coupled with the fact that the information sought has been worded not only in a very complex manner but is even otherwise confusing, petitioner would be entitled to the benefit of a doubt of not deliberately furnishing false information.

15. Noting that the petitioner has been honorably acquitted of a charge which in all probability was motivated petition stands disposed of quashing the impugned orders dated 7.7.2010, 26.8.2010 and 15.10.2010. Petitioner is directed to

be reinstated in service with all benefits to be paid to him save and except wages for the period he has not worked.

16. No costs.

**(PRADEEP NANDRAJOG)**  
**JUDGE**

**(SURESH KAIT)**  
**JUDGE**

**February 14, 2011**  
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