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

Decided on : 30.09.2015

+ **W.P.(C) 1116/2014, C.M. NO.5510/2015**

EX. CONSTABLE KULDEEP SINGH

..... Petitioner

Through : Ms. Jyoti Singh, Sr. Advocate with Sh.
Sameer Sharma and Ms. Tinu Bajwa, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Sh. Rajesh Gogna, CGSC with Ms.
Bhavna Bajaj, Advocate, for Respondent Nos. 1, 2,
4 and 5.

Sh. B.K. Rout, Pairavi Officer, CRPF.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. The petitioner's grievance is that by virtue of the impugned orders he was dismissed from the Central Reserve Police Force ("CRPF") from the post he held as Constable. The reason for his dismissal was that he omitted to report details of an FIR, which pertained to a time when the petitioner was still a minor. On the strength of this, he avers that his dismissal from the CRPF is arbitrary and unsustainable.

2. The brief facts are that the petitioner was enrolled in the CRPF as a Constable on 25.02.2003. On 16.09.2004, a Show Cause Notice was served upon the petitioner in response to a complaint dated 30.08.2004 addressed to the Commandant that had been the direct result of a letter dated 09.08.2004 sent to the authorities which alleged that a criminal case had been filed and was pending against him in 2002. The respondent submits that knowledge of this criminal case, filed in 2002, had not been divulged to the CRPF in the Verification Roll by the petitioner and as a result, by an order dated 30.09.2006 he was dismissed from service. The petitioner's appeals before the Appellate Authority as well as the Revisional authority were dismissed by orders dated 21.02.2007 and 29.10.2007 respectively.

3. Admittedly so, the FIR in question was lodged in respect of an offence under Sections 324/34 of the IPC on 05.12.2001. At the relevant time, the petitioner was 16 years and 8 months old, his undisputed date of birth being 01.04.1984. It is submitted by the petitioner that on 15.01.2003, a Character Certificate was issued by the District Magistrate/SDM whereby it was noted that there was no case recorded against the petitioner and nothing is pending against him. Subsequently he was also finally acquitted of the charges on 09.04.2013. His representation addressed to the respondents asking for a reconsideration of the case was rejected.

4. In these circumstances, it was contended by learned counsel for the petitioner that proceedings by the regular criminal court pursuant to prosecution by the police were a nullity. Counsel relies on Section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000 in this regard. On the other hand, learned counsel for the respondent states that irrespective of this, the information should have been disclosed when asked for.

Resultantly, it is argued, the respondents were justified in terminating the petitioner's employment.

5. The factual matrix establishes that at the time of the commission of the alleged offence, the petitioner was roughly 16 months short of attaining the age of majority i.e. 18 years. This necessarily places him the category of juveniles. Offences, if any, committed by whom are to be dealt with under the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereafter "the Act"). The provisions of the Act unambiguously mandate that all criminal charges against individuals – deemed "juveniles in conflict with law" are to be initiated and decided by the authorities constituted under the Act, i.e. the Juvenile Justice Board. In the absence of such procedure, the conviction or acquittal recorded by an ordinary criminal court would be of no consequence. Even otherwise, even if a conviction was recorded by the Juvenile Justice Board by virtue of Section 19, any disability attracted by such order would be effaced. Indeed, by Section 19(2), the Juvenile Justice Board is mandated to remove the record of conviction after a period of time. We also notice that Section 21 of the Act prohibits publication of the name of a juvenile in conflict with the law. The obvious intent of Section 19 and 21 is to, therefore, protect such persons from the adverse consequences and stigma of their actions during an age of immaturity. Requiring a person to disclose details of an "offence" alleged to have been committed by him when he was a minor goes against both the letter and spirit of the law and injects redundancy in its ultimate object of the Act. There is, thus, no obligation on the part of the petitioner to disclose information concerning allegations pertaining to his childhood, while applying for public

employment. Consequently, the action of the respondents cannot be sustained.

6. For the above reasons, the impugned order dated 30.06.2009, terminating his employment is hereby quashed. The respondents are directed to reinstate the petitioner within 12 weeks from today.

S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)

SEPTEMBER 30, 2015

