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

+ **W.P.(C) 2051/2013**

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Date of decision: 24.08.2015

VIKAS KUMAR

..... Petitioner

Through: Mr. Lalit Kumar and Mr Satendra
Singh, Advs.

versus

CENTRAL RESERVE POLICE FORCE (CRPF)

..... Respondent

Through: Mr. Arun Bhardwaj, CGSC for UOI
Mr. S.S. Sejwal, Law Officer, CRPF.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MS. JUSTICE DEEPA SHARMA (OPEN COURT)

1. The petitioner was selected for the post of blacksmith in Central Reserve Police Force (CRPF) in the recruitment for the year 2011 and was given provisional appointment, subject to verification of his character and antecedents and medical fitness. He joined the CRPF on 06.03.2011 and reported for training of eight weeks and had already completed half of his training when vide letter dated 23.12.2011 his services were terminated without assigning any reason. He thereafter filed W.P.(C) 2869/2012 in this Court which was disposed of vide order dated 14.05.2012 with the direction to consider the representation as an appeal. Liberty was also given to the

petitioner to approach this Court in the eventuality of rejection of his representation. His representation was subsequently rejected by the respondent. Hence, the present writ petition.

2. The dismissal is challenged on the ground that neither he was given any hearing nor conveyed the reasons for his dismissal.

3. The contention of the respondent is that the petitioner, at the time of provisional appointment, signed a verification roll. The declaration made therein was found incorrect on its verification. A letter dated 29.11.2011 was received from the Additional District Magistrate disclosing that an First Information Report (FIR) No.243 dated 11.07.2010 was registered against the petitioner in P.S.Khetri, District Jhunjunu, Rajasthan and a criminal case was pending trial in the Court of ACJM, Khetri. As the petitioner had concealed the registration of FIR and pendency of the criminal case against him, which was wilful and deliberate, pursuant to the provisions in Rule 5 of Central Civil Services (Temporary Service) Rules, 1965 and in the light of GOI Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Office Memorandum dated 19.05.1993, the provisional appointment of the petitioner was terminated. It is submitted that the petition is liable to be dismissed.

4. It is urged on behalf of the petitioner that no criminal case was pending in any court of law on the date 29.08.2011, when he signed the verification roll. It is further stated that he was never arrested or prosecuted. The FIR was registered against him, but a compromise was effected with the complainant party after challan was filed and he was freed from any allegation of committing the offences under Section 447, 323, 325/34 IPC.

5. We have heard the learned counsel for the parties and given thoughtful consideration to the rival contentions.

6. There is no doubt that the purpose of seeking the information through verification roll is to ascertain the character and antecedents of the candidate so as to assess his suitability for the post. Therefore, the candidate must answer the questions truthfully.

7. In answer to Column 12 (a) of the verification roll the petitioner was required to disclose the following information:

“12(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 education authority/Institutions?”

8. The petitioner has answered these queries in negative.

9. It is argued on behalf of the petitioner that he was never arrested. He was initially released on police bail and thereafter he was released by the court and hence, his answer to the query whether he had ever been arrested, is correct. From the record it is apparent that for the offences under Sections 447/323/325/34 IPC, the petitioner was released first on police bail and thereafter by the court. He was never taken into custody either by the police or by the court. In these circumstances, can it be said that the petitioner had deliberately answered the query wrongly? This question had come up for consideration before the court in *State of Haryana vs. Dinesh Kumar (2008) 3 SCC 222*. In that case after the registration of the FIR, Dinesh Kumar had voluntarily appeared before the Magistrate and without being taken into custody he was released on bail. Subsequently, he answered in negative to the query “*if he was arrested in any criminal case*”. On these facts the court held as under:

“31. When the question as to what constitutes “arrest” has for long engaged the attention of different High Courts as also this Court, it may not be altogether unreasonable to expect a layman to construe that he had never been arrested on his appearing before the court and being granted bail immediately. The position would have been different, had the person concerned not been released on bail. We would, in the facts of these cases, give the benefit of a mistaken impression, rather than that of deliberate

and willful misrepresentation and concealment of facts, to the appellant in the second of the two appeals as well, while affirming the view taken by the High Court in Dinesh Kumar's case."

10. In the present case also, the petitioner was not taken into custody at any time and thus it cannot be said that he had deliberately answered the query wrongly.

11. In the light of these facts is the act of the respondents justifiable? The Supreme Court in ***Commissioner of Police and Others vs. Sandeep Kumar*** (2011) 4 SCC 644 had the opportunity to deal with the question where a person, seeking public employment and who had concealed his involvement in a criminal case under Section 325/34, committed at tender age, was denied the public employment on this ground alone. The court has held as under:

"8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

9. In this connection, we may refer to the character "Jean Valjean" in Victor Hugo's novel Les Miserables,

in which for committing a minor offence of stealing a loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.”

12. In **Sandeep Kumar’s** case (supra) too, during query Sandeep Kumar was asked *“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 any examination/rusticated by any university or any other education authority/institution?”* to which the candidate had answered in negative. In the present case also, the petitioner had answered the similar query in the negative when he had also been found involved in the criminal case for the offences under Section 447/323/325/34 IPC.

13. Our attention is drawn to the fact that the report of the Additional District Magistrate dated 29.11.2011 is false and contrary to the record. It is submitted that vide order dated 24.08.2011 the petitioner had been freed of the charge pursuant to a compromise with the complainant party by the court of ACJM, Khetri and the case file was sent to the Record Room, still the Additional Magistrate in its report dated 29.11.2011 has recorded the

pendency of the criminal case against the petitioner. It is submitted that the respondent has apparently acted on wrong information supplied to it and on this count also the impugned order is liable to be set aside. There is no doubt that vide order dated 24.08.2011, the charge-sheet no.159/2010 dated 23.07.2010 against the petitioner was disposed of finally and the petitioner had been freed of the charges. The Additional District Magistrate's report dated 29.11.2011 on which the respondent has acted is contrary to the record.

14. In view of the above, we are of the opinion that the impugned order cannot be sustained. It is hereby set aside. The respondents are directed to reinstate the petitioner within six weeks and pass consequential orders to enable him to report to duties.

15. The writ petition is allowed in above terms.

DEEPA SHARMA, J.

S. RAVINDRA BHAT, J.

AUGUST 24, 2015

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