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

+ W.P.(C) 5826/2015 and CM Nos. 10511-10512/2015

KARAMVEER

..... Petitioner

Through: Mr M.K. Saroja, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Jaswinder Singh and Mr Sarfaraz
Ahmad, Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **31.08.2015**

The petitioner is aggrieved by the order, terminating him from service, issued by the Border Security Force (BSF). The petitioner was enrolled by the BSF on 12.04.2013. At that stage, he had filled an attestation form in which he had to disclose details of pendency of the criminal cases and past charges, if any. After his selection and appointment, it came to notice during verification that a Criminal Case No.136 was registered against him on 21.08.2010 under Sections 323, 324 and 34 IPC, at PS Kosli in relation to an incident. At that stage, the respondent BSF issued a charge-sheet and proceeded to hold a regular departmental enquiry. On the basis of the findings recorded, the impugned termination order was issued.

It is contended that petitioner had been acquitted on 24.04.2011 and consequently, he could not be faulted for suppression of fact.

In the course of these proceedings, the petitioner had disclosed that as

part of his paper book, another criminal proceeding by way of First Information Report being FIR No.239/2012, registered on 26.07.2012 at PS Rewari. The allegation was that a country-made pistol and live cartridges were recovered from him. He was consequently charged and sent for trial for committing offence under Sections 24/54/59 of the Arms Act. The petitioner contends that even in these proceedings, he was ultimately acquitted.

It is pointed out by the respondents that whatever be the contention of the petitioner, the fact remains that not only has he suppressed the fact that he had been charged which is what he was required to disclose, but, even stood trial for criminal charges, subsequently after his appointment and he was, in fact, acquitted on 23.01.2014. This later contention, in the opinion of the Court, is merited. If the petitioner had any misapprehension with respect to his obligation to disclose or even some confusion with that regard, the fact remains that he was prosecuted afresh in 2012 and was, in fact, facing trial at the point of time when he was employed by the respondent-BSF with effect from 12.04.2013. Having regard to these facts, the Court is of the opinion that this is not an appropriate case for exercising discretion under Article 226 of the Constitution.

The writ petition is, therefore, dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 31, 2015

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