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

+ W.P.(C) 7034/2015

JITENDER

..... Petitioner

Through: Mr U. Srivastava, Adv.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Ms Barkha Babbar, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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31.08.2015

The petitioner's grievance is that he was discharged from the service by the Central Industrial Security Force (CISF) on 10.06.2014 for non-disclosure and suppression of material facts.

The admitted facts are that the petitioner—born in 1989—had responded to a public advertisement for appointment as Constable of the CISF. He was selected and appointed to service on 02.02.2013. The CISF, after due verification, found that a criminal case was pending in respect of the petitioner's conduct where he was charged with committing an offence under Section 323, 325 and 34 IPC. This, the CISF, alleges to have become aware of in the course of verification of the petitioner's antecedents.

The petitioner contends that at the time of lodging of the case on 23.02.2009, he was barely 19 years old and given the surrounding circumstances, hardly any criminality could be attributed to him. In support of his arguments, he relies upon the judgment of the Supreme Court in

Commissioner of Police vs. Sandeep Kumar 2011(4) SCC 644, where in almost identical circumstances, the Court held that given that young people often commit indiscretions, such indiscretions can often be condoned. The omission to mention of the report is essentially a simple charge, cannot be fatal to public employment. This view or approach had been followed in ***Commissioner of Police vs. Naveen Kumar Mandiwal***, W.P.(C) No. 7808/2011, decided on 02.11.2011.

Ms Barkha Babbar, learned counsel for the respondent-CISF, submitted that the petitioner wilfully suppressed the material facts with respect to his involvement in a criminal case even though he was not obliged to disclose all material circumstances truthfully. The attestation form was consciously filled by the petitioner with knowledge that he has faced charges although he was acquitted. In these circumstances, the learned counsel for the respondent contends that the petitioner does not deserve any relief.

We notice that in ***Sandeep Kumar's*** case (*supra*) as well as ***Naveen Kumar Mandiwal's*** case (*supra*) (the latter view being confirmed by the Supreme Court which rejected Special Leave Petition subsequently), the Courts took a relaxed standard into consideration and held that where the criminal charges are not serious and appeared to have levelled at the stage when the applicant was a youth (though of tender years), the fact that omission to disclose these particulars ought not to be used so strictly so as to deprive the public employment altogether. A somewhat similar approach was indicated in ***Ram Kumer vs. State of Uttar Prades*** (2011) 14 SCC 709 when the Court held that mere fact that a criminal charge had been levelled at some stage in the past cannot be a solitary ground for refusal of public employment when the larger issue of suitability is involved.

Having regard to the above circumstances and the fact that the petitioner was acquitted of the charges levelled against him on 02.12.2011, at least a year and a half he was selected for the public employment, we are of the opinion that the approach favoured in ***Ram Kumar** (supra)* and ***Sandeep Kumar** (supra)* and later followed in ***Naveen Kumar Mandiwal** (supra)* has to be adopted in this case. Consequently, the impugned order of discharge is hereby set aside. The respondents are directed to issue an order reinstating the petitioner into service with continuity. He shall, however, not be entitled to any arrears of salary.

The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 31, 2015
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