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

Decided on: 08.09.2015

+ W.P.(C) 7394/2015

RAJENDER KUMAR

..... Petitioner

Through: Mr. A. K. Trivedi, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Ruchir Mishra, Mr Shreya Sinha and
Mr Mukesh Kumar Tiwari, Advs.

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 was dismissed by the concerned Disciplinary Authority after the Enquiry Officer held him guilty of misconduct in that he assisted the manipulation of records to facilitate a candidate in the process of recruiting Constables to the Central Reserve Police Force (CRPF). The dismissal order was based upon evidence of witnesses who had heard the petitioner confess to the wrongdoing. The petitioner's appeal dated 03.04.2006 to the Competent Authority was rejected. The petitioner then filed W.P.(C) No.15728/2006 in this Court which was directed to be treated as revision petition. On 26.02.2009, the said revision petition was also rejected.

2. Parallely, the petitioner was also prosecuted for the offences punishable under Sections 419, 420, 468, 471, 120-B of the Indian Penal Code. The Criminal Court held that the petitioner's guilt could not be proved beyond reasonable doubt and consequently acquitted him of the charges by judgment dated 20.11.2013.

3. Therefore, he sought reinstatement to the services through a representation which was turned down by CRPF. Learned counsel has sought to place reliance on the judgment of the Supreme Court **G.M. Tank vs. State of Gujarat and Others** (2006) 5 SCC 446 and emphasized that the Supreme Court in the said case has ruled that the subsequent acquittal of an employee charged with misconduct and dismissed from services can be gone into by the Writ Court which can grant appropriate relief in the interest of justice.

4. We have considered the materials on record. The petitioner does not dispute that he was furnished with adequate opportunity to defend himself. During the course of hearing, the main submission was that the candidate concerned Shri Satish Kumar did not depose in the departmental enquiry. However, in our opinion that detail alone is insufficient to hold that the dismissal order was vitiated. There were several witnesses who deposed to the petitioner's conduct, i.e., frank confession to the wrongdoing and misconduct during the course of departmental proceedings. These included members of the Selection Board who had noticed discrepancy in the candidature and discerned that Shri Satish Kumar had allowed impersonation in connivance with the petitioner. In these circumstances, unlike in **G.M. Tank's** case (*supra*), there was sufficient evidence for the Enquiry Officer to conclude as he did that the petitioner was guilty.

5. As an alternative plea, it was urged that the petitioner had more than 17 years of unblemished record and his claim for compassionate allowance should be considered. We are of the opinion that the issue of compassionate allowance under Rule 41 of Central Civil Services (Pension) Rules, 1972 is an aspect independent of the present proceeding. It is open to the petitioner to seek relief under that rule if a representation is made to the respondents. The same shall be considered on its merits and in accordance with law within six weeks of its receipt and its decision shall be communicated directly to the petitioner.

The writ petition is disposed off in the above terms.

**S. RAVINDRA BHAT
(JUDGE)**

**DEEPA SHARMA
(JUDGE)**

**SEPTEMBER 08, 2015
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