

\$~14

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

+ **W.P.(C) 784/2016 & CM No.6795/2016**

Decided on : 24.02.2016

IN THE MATTER OF:

MANDEEP

..... Petitioner

Through : Mr. Sachin Chauhan, Advocate

versus

MINISTRY OF RAILWAYS AND ORS

..... Respondents

Through : J.K. Singh, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

HIMA KOHLI, J. (Oral)

1. The petitioner herein, who has sought recruitment in the respondent/Railways as Constable (GD), is aggrieved by the orders dated 17.9.2015 and 9.10.2015, whereunder he has been discharged on account of involvement in a criminal case pending before the District Magistrate, Jind, Haryana.

2. Counsel for the petitioner submits that at the time of filling up the Attestation Form (Annexure 5), the petitioner had not withheld any information with regard to pendency of a criminal case against him, which is

apparent from a perusal of column 12 thereof, wherein he has admitted to registration of FIR No.62 dated 25.4.2012 against him at PS Jind, Haryana. He submits that in less than two months from the date of passing of the impugned order dated 9.10.2015, vide judgment dated 1.12.2015 pronounced by the Chief Judicial Magistrate in CIS No.39586/2013 entitled “State vs. Mahender & Ors.,” the petitioner, who was arrayed as accused No.3, was acquitted along with all the other accused. Immediately on receiving a copy of the aforesaid judgment, the petitioner had addressed a representation dated NIL to the respondent (Annexure P-3) requesting that the discharge order be set aside in view of his acquittal. The grievance of the petitioner is that the respondents have failed to reply to the said representation till date.

3. When the case was listed for admission on 3.2.2016, learned counsel for the petitioner was directed to file an affidavit clarifying *inter alia* if the judgment dated 1.12.2015 passed by the Chief Judicial Magistrate, Jind, Haryana has attained finality or whether any appeal has been filed and/or pending consideration before the Appellate Court. Pursuant to the said order, the petitioner has filed an affidavit dated 8.2.2016 enclosed with CM No.6795/2016 stating *inter alia* that till the date of filing of the said affidavit, no appeal had been filed against the judgment dated 1.12.2015.

4. A copy of the aforesaid affidavit has been furnished to the counsel for the respondents, who states, on instructions, that in view of the fact that the representation of the petitioner is pending at the end of the respondents, they may be permitted to consider the same in the light of the subsequent development and the affidavit filed by the petitioner and thereafter, pass a speaking order within four weeks from today.

5. Accordingly, the present petition is disposed of with directions to the respondents to consider the petitioner's representation (Annexure P-3) in the light of the judgment dated 1.12.2015 pronounced by the Chief Judicial Magistrate, Jind, Haryana and the affidavit dated 8.2.2016 filed by the petitioner and pass a speaking order in accordance with law, under written intimation to him within a period of four weeks from today. If the respondents accept the petitioner's representation, then he shall be reinducted with continuity in service and all other benefits as may have accrued to him, had the impugned order not been passed.

6. Needless to state that if the petitioner is aggrieved by the decision that may be taken by the respondents, he shall be entitled to seek his remedies in accordance with law.

7. The petition is disposed of, along with the pending application.

(HIMA KOHLI)
JUDGE

(SUNIL GAUR)
JUDGE

FEBRUARY 24, 2016
sk/ap

