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

+ **W.P.(C) 6646/2015**

ANKUR SANGWAN

..... Petitioner

Through: Mr. N.S. Dalal, Advocate with
Ms. Ruchika Sharma, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. J.K. Singh, Advocate with
Mr. Parveen Kumar, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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10.03.2016

1. The petitioner had applied as a candidate for the post of Constable in the Railway Protection Force (in short '**the RPF**') in response to an advertisement issued in the year 2011. Vide letter dated 1.10.2014, the petitioner was informed that he had been provisionally selected as a Constable in the RPF and on successful completion of training, subject to fulfilment of other conditions, he shall be issued a call letter. The petitioner was also directed to report for training on 01.11.2014. The training period was to last for 6-7 months. However, during the course of the training, on 04.5.2015, the respondent/RPF had issued a notice to show cause to the petitioner, informing him that at the time of reporting for training, he had submitted an Attestation Form dated 25.5.2014, and an Affidavit dated

15.10.2014, affirming *inter alia* that he had never been arrested and/or prosecuted or kept under detention, whereas they had received a police verification report from the Senior S.P. Janpad, Meerut, U.P. which had revealed that a case had been registered against him at Sadarpur, UP Police Station (Crime Case No. 307/2012), under Sections 323/324/504/506/498-A of IPC and Section 3/4 of Dowry Prohibition Act. Intimating the petitioner that the aforesaid facts had been suppressed by him and he had furnished a false declaration to the effect that he had never been arrested and /or prosecuted or kept under detention and that no case had been registered against him, he was called upon to submit a reply as to why should he not be discharged from training and his selection be cancelled for suppression of facts and on account of furnishing a false declaration.

2. Though a reply was submitted by the petitioner to the Memorandum issued by the respondents, it is not on record. Learned counsel has produced the relevant records and he hands over a copy of the reply submitted by the petitioner. In his reply submitted on 06.5.2015, the petitioner had stated that no doubt a FIR had been registered on the complaint of his sister-in-law, wherein he had been named, but after the investigation was conducted, he had not been named in the charge sheet. He had further clarified that he had not been arrested by the police at any stage and, for this reason, he remained under the bona fide impression that the said information was not required to be furnished. Resultantly he did not specifically state so in the Affidavit dated 01.11.2014. The aforesaid document is taken on record.

3. Upon receiving the petitioner's reply to the notice to the show cause, the respondents proceeded to issue the impugned Memorandum dated

15.6.2015, informing him that since he had admitted that a case was registered against him in the year 2012, though it was closed later, and the said information had not been furnished by him in the Attestation Form or the Affidavit, he was forthwith discharged from training and his selection to the post of Constable in RPF stood cancelled on the ground that he had contravened para 9 (f) of the Advertisement for the selection of Constables in the RPF/RPSF, para 1 of the Attestation Form and submitted a false declaration in the Affidavit. Aggrieved by the aforesaid discharge order, the petitioner has filed the present petition.

4. Mr. Dalal, learned counsel for the petitioner submits that the action of the respondents in discharging the petitioner is arbitrary inasmuch as in the application form that he was required to fill up for applying to the post of a Constable in the RPF, there was no column where he was expected to furnish information with regard to registration of a FIR against him. Similarly, in column No.12 of the Attestation Form submitted by the petitioner on 25.5.2015, there did not exist any column requiring him to state as to whether any FIR had been registered against him. Even in the Affidavit dated 15.10.2014, submitted by the petitioner he had stated that he had never been arrested or prosecuted or kept under detention/fined or convicted by any Court of law for any offence, which was the correct factual position. Learned counsel submits that the FIR registered as Crime Case No. 307/2012 at PS Saroorpur, District Meerut, U.P. did mention the petitioner's name at Sr. No.3, however, the charge sheet subsequently submitted by the prosecution before the concerned Criminal Court had specifically stated that no involvement of the petitioner or his sister was found.

5. Per contra, learned counsel for the respondent opposes the present

petition and submits that para 9(f) of the Advertisement issued by the RPF for selection of Constables had clearly mentioned as follows:-

“Candidate found to be having adverse report on their antecedents and character may not be appointed in RPF/RPSF and false declaration is an offence under the Law and will lead to disqualification of the applicant. Further, para 1 of the attestation form clearly states that the furnishing of false information or suppression of any factual information in the attestation form would be a disqualification and is likely to render the candidate unfit for employment under the Govt.”

6. He submits that while replying to the Memorandum dated 04.5.2015, the petitioner had admitted in his reply dated 06.5.2015, that he was involved in a case which information had been withheld by him at the time of filling up the Attestation Form and furnishing the Affidavit. He contends that the petitioner ought to have volunteered the fact that he had been named in a FIR which was not done in the present case and therefore, his candidature had been rightly cancelled.

7. We have heard the arguments advanced by the learned counsels for the parties and perused the records produced by the counsel for respondent and given our careful consideration to the submissions made. A glance at the FIR filed by the petitioner under index dated 6.10.2015 reveals that the complaint in the present case was made by the brother of the petitioner's sister-in-law, Rekha who was married to the petitioner's brother, Mohit. The complainant had levelled allegations against the petitioner's brother and father and the incident in question relates to 21/22.9.2012. As per the complainant, when his father and other relatives had visited Rekha's matrimonial home some altercation had taken place between the parties.

However, no specific allegations have been levelled against the petitioner in the FIR. Further, a perusal of the charge sheet dated 04.3.2013, submitted before Judicial Magistrate, Sardhana, Meerut, U.P. specifically states that during the investigation, it was found that there was no involvement of the petitioner in the incident in question and he has not been arrayed as an accused in the said case.

8. From the aforesaid facts, it is evident that the petitioner was only named in the FIR but no specific allegations were levelled against him therein and at the time of filing the charge sheet, it was clearly stated that he was not involved in the incident that had taken place on 21/22.9.2012. In such circumstances, we find merit in the submission made by the learned counsel for the petitioner that having regard to the fact there was no case pending against the petitioner, nor had he been implicated in the case referred to in the Memorandum dated 4.5.2015, issued by the respondent, there was no occasion for him to have furnished the information as finds mention in the impugned Memorandum dated 15.6.2015. When the petitioner had made a declaration in the Attestation Form and in the affidavit, it was true and correct and to the best of his knowledge.

9. The contention of the learned counsel for the respondent that the petitioner had withheld material information in the Attestation Form is untenable inasmuch as column no. 12 of the said Form does not contain any sub-clause which requires a candidate to specifically state as to whether any FIR has been registered against him. In such circumstances, reliance placed by learned counsel for respondent to para-9 (f) of the Advertisement or for that matter, the opening para of the Attestation Form would be futile. The submission of the counsel for the respondent that column no. 12(b) of the

Attestation Form which requires a candidate to state as to whether he has been prosecuted, should have elicited a response from the petitioner that a FIR had been registered against him, is found to be devoid of merits for the reason that registration of a FIR does not necessarily have to culminate in a charge sheet and it is only after a person has been named in the charge sheet that the wheels of a criminal case are set into motion. If the respondents requires a candidate to disclose registration of an FIR against him, then it is for them to take the remedial measure by amending the Attestation Form and soliciting such information. But the Form, as it stands today, does not require any such information be disclosed by a candidate.

10. As a result, the present petition is allowed. The impugned order of discharge is quashed and set aside and the petitioner is permitted to rejoin his training. The respondent shall give a written intimation to the petitioner as to the date, time and venue where he is required to report for re-induction of his training for the balance period, within six weeks from today.

11. The petition is disposed of with no orders as to costs.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 10, 2016

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