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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : July 11, 2016

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W.P.(C) 9009/2015

YASHKANT SINGH

..... Petitioner

Represented by: Mr.Pramod Kumar Sharma, Advocate

versus

UNION OF INDIA & ORS

.....Respondents

Represented by: Mr.Jitendra Kumar Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. Successfully clearing the recruitment process for being appointed as a constable in Railway Protection Force, the petitioner filled up the enrolment form and against the relevant column which required him to state whether he was an accused in any criminal case or an FIR was registered naming him as an accused, the petitioner responded in the negative.
2. The Railway Protection Force proceeded to verify the antecedents of the petitioner and addressed a letter to the District Magistrate of the area wherein petitioner has his permanent aboard. Pending report the petitioner was inducted into service.
3. The District Magistrate informed that an FIR had been registered at PS Mirhachi (UP) for offences punishable under Section 498A/304B read with Section 201 IPC and Section 3/4 of the Dowry Prohibition Act in which the petitioner was named as an accused.

4. Based on the information received vide impugned order dated July 29, 2015 the petitioner was informed that he was discharged from service immediately.
5. Case of the petitioner is that concerning the FIR in question it pertained to the death of his sister-in-law who died on March 24, 2012. As per the petitioner the death was natural and after investigation the police submitted a closure report on June 16, 2013 which was accepted by the learned Magistrate concerning the death of petitioner's sister-in-law and as regards the allegations in the FIR by the parents of the girl attracting Section 498A IPC as also Section 3/4 of the Dowry Prohibition Act, on a settlement between the petitioner's brother and parents and the parents of his sister-in-law, the matter was closed.
6. In a nut shell, according to the petitioner he was not aware of the FIR being registered for the reason neither the police ever apprehended him nor served him with any notice requiring him to join at the investigation.
7. In the counter affidavit filed the respondents have simply reiterated that the petitioner withheld relevant information concerning his character i.e. he being an accused in the FIR in question.
8. In the counter affidavit the averments made in the writ petition that the petitioner was not aware of the FIR in question being registered and he being an accused and the police neither apprehended him nor summoned him have not been denied.
9. The counter affidavit has not denied that after investigating the police ultimately field a closure report.
10. Suffice it to say that unless a person is aware of a fact concerning him, non-disclosure of said fact by him would not amount to any intentional

suppression. In a similar circumstance allowing W.P.(C) No.7564/2015 Abhimanyu Pande Vs. UOI & Ors. on August 11, 2015 a Division Bench of this Court set aside the order of discharge requiring the petitioner therein to be reinstated in service and re-inducted into training for the balance period.

11. The writ petition is accordingly allowed.

12. Order dated July 29, 2015 is quashed. The petitioner shall be reinstated in service and if he has not completed training he would be permitted to complete the same. The petitioner would be entitled to arrears of salary and all other consequential benefits including increments and seniority.

13. Compliance shall be made within 6 weeks from today.

14. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JULY 11, 2016

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