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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **WRIT PETITION (CIVIL) No. 3906/2016**

Date of decision: 5th July, 2017

MANDEEP

..... Petitioner

Through Mr. Sachin Chauhan, Advocate.

versus

MINISTRY OF RAILWAY, GOVT.OF INDIA&ORS. Respondents
Through Mr. J.K. Singh, Standing Counsel & Ms.
Madhulika Agarwal, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

SANJIV KHANNA, J. (ORAL):

The petitioner was appointed as Constable (General Duty) in the Railway Protection Force. Subsequently, the petitioner was discharged on account of his involvement in FIR No. 62/2012 dated 25th April, 2012 under Section 323/324//506/148/149 IPC registered at Police Station Julana, Haryana.

2. The petitioner had duly mentioned the aforesaid FIR in his attestation form on 18th May, 2014. Thus, this is not a case of concealment.

3. The petitioner had earlier filed Writ Petition (C) No. 748/2016 challenging the order of discharge. He had also relied upon judgment of acquittal dated 1st December, 2015 passed by the Chief Judicial Magistrate

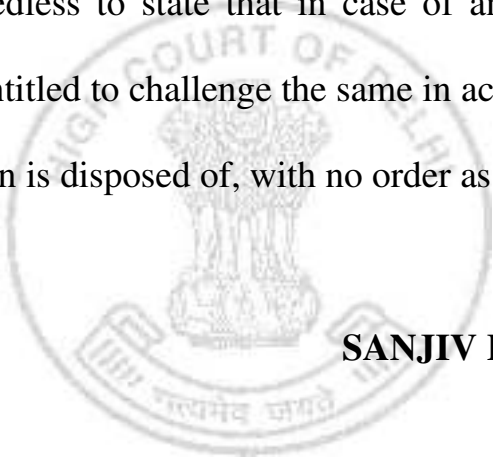
in CIS No. 39586/2013 titled *State versus Mahender and Others*. This writ petition was disposed of vide order dated 24th February, 2016 with a direction to the respondents to consider the petitioner's representation in the light of the said judgment and affidavit dated 8th February, 2016. The respondents were asked to pass a speaking order in accordance with law under intimation to the petitioner. Certain other directions were also issued.

4. The respondents vide order dated 11th April, 2016 have rejected the representation made by the petitioner recording that the petitioner was acquitted vide judgment dated 1st December, 2015 whereas the discharge order was passed earlier on 17th September, 2015. It has been observed that the petitioner was under trial on the date of issue of discharge order.

5. We do not think that the impugned order dated 11th April, 2016 can be sustained in view of the subsequent pronouncement of the Supreme Court vide judgment dated 21st July, 2016 in *Avtar Singh versus Union of India and Others*, (2016) 8 SCC 471. The respondents would have to re-examine the entire case afresh in the light of the observations and the ratio pronounced by the Supreme Court. The said exercise will be undertaken by the respondents within a period of six weeks from the date a copy of this order is received. It will be open to the petitioner to make a further representation highlighting the relevant paragraphs/sub-paras of the judgment on which he relies with reference to the criminal case in

question. We hope and trust that the respondent authorities will give due consideration and notice the observations and ratio of the Supreme Court and the parameters/criteria prescribed therein. The respondents would pass a speaking order dealing with the contentions raised and the criteria/parameters prescribed by the Supreme Court. In case the respondents accept the petitioner's representation, the petitioner would be entitled to continuity of service and other benefits as may have accrued to him in terms of the directions already issued in the order dated 24th February, 2016. Needless to state that in case of an adverse order, the petitioner would be entitled to challenge the same in accordance with law.

The writ petition is disposed of, with no order as to costs.



SANJIV KHANNA, J.

NAVIN CHAWLA, J.

JULY 05, 2017
VKR/NA