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

+ W.P.(C) 7533/2016

EX. CT.COOK PAWAN KUMAR Petitioner

Through Mr. Anuj Aggarwal, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through Mr. Arun Bhardwaj, CGSC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

A.K.Chawla, J (Oral)

Petitioner - Ct./Cook Pawan Kumar seeks issuance of a writ of certiorari for quashing of termination of his service vide communication dated 14.2.2007 issued by Additional DIGP, GC, CRPF, Neemuch (M.P).

2. Precisely, the factual matrix of the petitioner's case is that he was appointed as Ct.(Cook) and was posted with Station Hospital, CRPF, Neemuch. On the intervening night of 10-11/11/2016, theft of a computer system along with monitor, key board and mouse took place from the main store of the Hospital. A court of enquiry came to be ordered to find out under which circumstances computer system went missing from Hospital Store and to fix the responsibility on the persons involved with it. FIR No.486/06 dated 11.11.2006 under Section 379

IPC also came to be registered. Besides the petitioner, Ct./Cook Suresh Kumar was arrested on 22.11.2006. On conclusions of investigations, police filed Challan No. 415/06 dated 11.12.2006 for trial of the offences u/S 457/380 IPC. For the offences under Sections 457/380 IPC, both the petitioner and Ct. Suresh Kumar, were acquitted.

3. Petitioner and Ct. Suresh Kumar, who were similarly placed, however, came to be terminated from service, vide order dated 19.2.2015, being probationers.

4. Ct./Suresh Kumar on his part filed WP(C) No. 8114/2013 titled Cook Suresh Kumar vs. Union of India and Ors., which was allowed by the division bench of this Court, vide judgment dated 19.2.2015 and the order terminating his services was quashed and he was ordered to be reinstatement without any back wages.

5. Petitioner places reliance thereon, for the facts and issue raised and declared are identical.

6. We have given our due consideration to the submission made on behalf of both the sides.

7. During the course of hearing, learned counsel for the respondents conceded that the facts and circumstances on which the instant writ petition is founded are akin to the case of Ct./Cook Suresh Kumar, whose writ petition has come to be allowed by the Division Bench of this Court in Cook Suresh Kumar (supra) and, that, the decision has become final.

8. In Ct./Cook Suresh Kumar (supra), the Division Bench of this Court had held that where an enquiry was conducted into an alleged misconduct by the said petitioner, a probationer, behind his back and an order of termination was passed 'founded' on the report of the enquiry indicting the probationer, the action of termination of services would be tainted and that, in the given case, when a Court of Enquiry was held, in which, a definite verdict of guilt was returned, the petitioner therein was entitled to a full fledged enquiry, to prove his innocence and on lifting the veil, the non-stigmatic order terminating the said petitioner's service was penal in nature. The present petitioner is identically placed as Cook Suresh Kumar in WP(C) No. 8114/2013. We see no reason and ground as to why, the present petitioner would be not entitled to the similar relief.

9. In view of the foregoing, the writ petition is allowed and the impugned order terminating the services of the petitioner is quashed and it is ordered that the petitioner be reinstatement without any back wages, but with notional pay increments, on reinstatement. The respondent however, would be free to take such action as may be permissible under law.

No order as to costs.

ANIL KUMAR CHAWLA, J

SANJIV KHANNA, J

MAY 02, 2017/mw