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

+ **W.P.(C) 10558/2016**

Date of decision: 25th September, 2017

SATISH CHANDRA YADAV Petitioner
Through Mr. Himanshu Gautam, Advocate.

versus

UNION OF INDIA & ORS Respondent
Through Mr. Jasmeet Singh, CGSC with Mr.
Srivats Kaushal, Advocate and Mr. Vivek Kumar,
Law Officer, CRPF.

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

SANJIV KHANNA, J. (ORAL)

Satish Chandra Yadav, upon selection by the Staff Selection Commission, was recruited as a temporary employee on the post of Constable (General Duty) in the Central Reserve Police Force (CRPF) on 28th July, 2014. After basic training, he was asked to report for duty in 179th Battalion in the CRPF.

2. During the course of selection process, the petitioner was asked to fill up form CRP-25 for the purpose of verification of his character and antecedents.

3. On 5th February, 2016, the Commandant of the 179th Battalion issued show cause notice to the petitioner alleging suppression of

information as the petitioner had earlier been named and prosecuted in FIR No.1015/2008, Police Station Khalilabad, District Sant Kabir Nagar, Uttar Pradesh under Sections 147/148/323/324/504 and 506 of the Indian Penal Code, 1860.

4. A number of defences were raised by the petitioner but the disciplinary authority did not agree and passed termination order dated 11th March, 2016 with effect from 18th March, 2016.

5. The petitioner filed an appeal and thereafter a revision, but they were dismissed by the Inspector General, Western Sector, CRPF vide order dated 13th July, 2016 and by the Director General of Police, CRPF, New Delhi vide order dated 27th September, 2016.

6. Counsel for the petitioner has drawn our attention to form CRP-25 and in particular to column 12 and different columns thereof. It is submitted that the petitioner had correctly answered the questions. The petitioner by judgment/order dated 13th January, 2016 was acquitted in the said criminal case and it is highlighted that the charges were framed on 11th January, 2016.

7. We have considered the said contention of the petitioner and find that the order of termination cannot be sustained and an order of remand is required to be passed in view of the decision of the Supreme Court in *Avtar Singh versus Union of India* (2016) 8SCC 471. This decision by the Bench of three Judges refers to the case law on the subject and in paragraph 30 had expounded and clarified the legal position as under:-

“30) We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

(1) Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

(2) While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

(3) The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

(4) In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted : -

(a) In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its

discretion, ignore such suppression of fact or false information by condoning the lapse.

(b) Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

(c) If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

(5) In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

(6) In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.

(7) In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

(8) If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

(9) In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

(10) For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

(11) Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.”

8. The impugned order passed by the respondents i.e. the order of termination dated 11th March, 2016, appellate order dated 13th July, 2016 and the revisionary order dated 27th September, 2016 do not take into consideration the dictums and principles laid down by the Supreme Court in *Avtar Singh* (supra). We would, however, not remand the matter to the disciplinary authority and would ask the revisionary authority to examine the case of the petitioner in the light

of the principles laid down in the case of *Avtar Singh* (supra). This would cut short delay. The petitioner would be also entitled to make a written representation, which may be filed within a period of two weeks from today with the revisionary authority setting out and pointing out the factors which would matter in terms of the decision and the principles laid by the Supreme Court.

9. The revisionary authority would pass an appropriate order in accordance with law within six weeks from the date the representation is made. In case the petitioner succeeds, appropriate orders would be also passed by the authorities with regard to treatment of the period between 11/18th March, 2016 and the date of reinstatement.

10. The writ petition is accordingly disposed of in the aforesaid terms without any order as to costs. If aggrieved, it will be open to the petitioner to challenge the impugned order in accordance with law. We clarify that we have not expressed any opinion on merits.

SANJIV KHANNA, J.

NAVIN CHAWLA, J.

SEPTEMBER 25, 2017

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