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

+ W.P.(C) 2872/2018 & C.M. No. 11596/2018

AMIT KUMAR

..... Petitioner

Through: Mr. Pradeep Choudhary, Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. J.K. Singh, SC with
Mr. Harsh Pandit, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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13.07.2018

1. The present petition has been filed by the petitioner praying *inter alia* for issuing a writ of certiorari, for quashing the order dated 19.3.2015 passed by the respondents/RPF, discharging him from training on the ground that he had furnish false/suppressed information about a criminal case pending against him in the attestation form. Further, the petitioner has sought quashing of the order dated 30.6.2016, passed by the respondents/RPF, whereby his representation dated 20.4.2015, was considered by the Competent Authority in compliance of the order dated 29.1.2016, passed by the High Court in W.P.(C) No. 9212/2015, and it was held that the petitioner had falsely declared in his Attestation Form that no case has been registered against him and on account of said false information, he had rightly been discharged as a recruit trainee.

2. On the first date of hearing, i.e., on 23.3.2018, in view of the submission made by learned counsel for the petitioner that his client disputes the stand taken by the respondents in the impugned order dated 19.3.2015 that the petitioner had denied having been arrested/prosecuted while filling up the Attestation Form on 05.6.2014, learned counsel the respondents was directed to produce the original documents filled up by the petitioner at the time of his entry into the service. The said documents have been produced by the counsel for the respondents/RPF today.

3. We have perused the printed Attestation Form dated 05.6.2014, filled up by the petitioner in long hand. Para 12 of the Attestation Form has five sub-paras, reproduce herein below:-

- | | |
|---|----------|
| “12. a) Have you ever been arrested? | Yes / No |
| (b) Have you ever been Prosecuted? | Yes/No |
| (c) Have you ever been kept under detention? | |
| | Yes/No |
| (d) Have you ever been bound down? | Yes/No |
| (e) Have you ever been fined by a Court of law? | |
| | Yes/No” |

4. The Attestation Form reveals that against para 12 (a) and (b), the petitioner has answered in the affirmative by ticking ‘Yes’, whereas in reply to para 12 (c), (d) and (e) he had answered in the negative by ticking ‘No’.

In para 12 (l), the following query was posed to the applicant:-

“If the answer to any of the above mentioned question is ‘Yes’, give full particulars of the case/ arrest/ detention/ fine/conviction/sentence/punishment/acquittal etc. and/or the name of the case pending in the Court/University/Educational Authority etc. at the time of filling up this form.” Yes/No

5. The petitioner had ticked ‘No’ in answer to the query posed above.

6. Further, the records reveals that the petitioner had filed an affidavit with the respondents before joining service, which clearly stated as below:-

"(i) That I have never been arrested and/or prosecuted, kept under detention or fined/convicted by any court of law for any offence, or debarred or disqualified by any Railway recruitment Board or any Recruitment Board/Commission of the Govt. of India or any State of India.

(ii) That there is no case pending against me in any court of Law.

(iii) I understand that if at any time during my service, any information furnished by me is found to be false/misleading, I will be liable to be discharged without any notice or assigning any reasons. In such a case, I will not have any right for my claim against the Railways."

7. The original records have been shown to the learned counsel for the petitioner, who has duly perused the same. On being confronted with the contradictions noted above, learned counsel for the petitioner seeks to take a plea that there may have been some confusion in filling up the Attestation Form. He has no explanation to offer for the averments made by the petitioner in the affidavit subsequently submitted by him at the time of reporting for training except for stating that a criminal case against the petitioner was filed subsequent to his submitting the Attestation Form and the affidavit.

8. The said submission is factually erroneous inasmuch as a perusal of the above documents filed by the petitioner along with the writ petition indicates that the Judicial Magistrate-Ist Class, Bahadurgarh had compounded the criminal case against the petitioner and other co-accused, entitled State vs. Ramesh etc., by passing an order on 12.11.2013, which

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was much before the petitioner had submitted the Attestation Form with the respondent/RPF. In other words, the petitioner cannot claim that he was not named as an accused in a criminal case, having been duly represented before the learned Judicial Magistrate-Ist Class, Bahadurgarh, who had compounded the said case on an application filed by the complainant therein.

9. In view of the above, the present petition is dismissed along with the pending application as being devoid of merits.

HIMA KOHLI, J

REKHA PALLI, J

JULY 13, 2018

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