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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8357/2019

KRANDEEP KUMAR

..... Petitioner

Through: Mr. Girijesh Pandey and Ms. Alpana
Pandey, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Jayant Bhatt, Senior Panel,
Counsel for UOI with Mr. Sameer S.
Sinha, G.P. and Ms. Deepali Suri,
Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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26.08.2019

1. The Petitioner is before this Court questioning an order dated 17th June, 2019 passed by the Inspector General (NCR), CISF, Headquarters, declining to interfere with the termination of the Petitioner from services by the Appointing Authority i.e. Assistant Inspector General, CISF by an order dated 10th January, 2018.

2. The facts in brief are that the Petitioner had been selected for the post of Constable (GD) in the Central Industrial Security Force (CISF) and commenced his basic training from 29th September, 2014. He was on probation for a period of two years as per Rule 25 of the CISF Rules, 2001.

3. The Petitioner submitted an attestation form on 11th September, 2014. On 9th December, 2014, the attestation form was sent to the District Magistrate,

Khagaria, Bihar for verification of his character and antecedents. In response thereto, the District Magistrate, Khagaria, Bihar by a letter dated 8th November, 2016, enclosed a copy of an intimation dated 21st October, 2016 received from the Superintendent of Police, Khagaria, Bihar stating therein that the Petitioner had been involved in Crime Case No.73/2013 dated 27th March, 2013 under Section 435/34 of the Indian Penal Code ('IPC') and a charge-sheet had been filed before the concerned criminal court.

4. On receipt of the verification report, the case was examined by the 18th Standing Screening Committee on 16th June, 2017, which found the Petitioner to be unsuitable for appointment in the CISF in light of the Policy Guidelines dated 1st February, 2012 issued by the Ministry of Home Affairs. On that basis, on 10th January, 2018, the Appointing Authority passed an order terminating the Petitioner's services for suppression of factual information in the attestation form at paragraph No.12 (b) by giving one month's pay in lieu of one month's notice.

5. The Petitioner's representation against the above order of removal made on 21st February, 2019, was rejected by the Respondent No.2 by the impugned order dated 17th June, 2019.

6. This Court has heard the submissions of learned counsel for the Petitioner.

7. Certain facts which remain undisputed are that the Petitioner was indeed arrayed as an accused in Crime No.73/2013 and charged with the commission of an offence punishable under Section 435/34 IPC. It is also

not in dispute that at the time he filled up the attestation form in September, 2014, he did not indicate anything in Column 12 (b) about the pendency of the above criminal case.

8. Learned counsel for the Petitioner submits that there was a ‘settlement’ between the complainant and the present Petitioner, even prior to his being appointed to the CISF in September, 2014. However, the fact of the matter is that the order of the Judicial Magistrate, First Class, Khagadia, Bihar acquitting the Petitioner was passed only on 28th February, 2017 i.e. well over two years after the Petitioner joined the CISF. Admittedly, there is no judicial order recording the ‘settlement’ as claimed by the Petitioner. In any event, the offence under Section 435/34 IPC is not a compoundable one in terms of Section 320 of the Code of Criminal Procedure 1973 and there was, therefore, no occasion even for the Petitioner to have filed any application seeking discharge based on such a “settlement”.

9. Learned counsel for the Petitioner next relied on the judgments of the Supreme Court in *Commissioner of Police v. Sandeep Kumar* (2011) 4 SCC 644 and *Avtar Singh v Union of India* (2016) 7 SCALE 378.

10. As far as the decision in *Commissioner of Police v. Sandeep Kumar* (*supra*) is concerned, the Court finds that the offence involved in that case was one which was punishable under Section 325/34 IPC, which in the view of the Supreme Court was not a ‘serious offence’. Therefore, the said decision appears to have been rendered in the facts and circumstances of that case. As already noticed hereinbefore, the offence in the present case for which the Petitioner was tried, was one punishable under Section 435/34

IPC, which as already noted, is not a compoundable one.

11. As far as the decision in *Avtar Singh v. Union of India* (*supra*) is concerned, the Supreme Court has summarized its conclusions in paragraph 30 of its judgment, and what is immediately relevant, is sub paragraph (4) (a), which reads as under:

“(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.”

12. In the present case, the offence is not a trivial one and, therefore, the Petitioner cannot take advantage of the above judgment.

13. Learned counsel for the Petitioner submitted that under paragraph 30 (9) of the judgment in *Avtar Singh v. Union of India* (*supra*), if the employee is confirmed in service then the holding of a departmental enquiry would be mandatory before passing an order of termination/removal on the ground of suppression or submission of false information in the verification form.

14. In the present case, however, the Court finds that the facts are not in dispute. Clearly, the Petitioner did not fill up Column 12 (b) of the

attestation form, knowing fully well about the pendency of the criminal case against him for an offence punishable under Section 435/34 IPC. The holding of an inquiry would not have, in the circumstances, served to bring about a different result. It would at this stage be a futile exercise.

15. In that view of the matter, the Court is not inclined to interfere with either the order dated 10th January, 2018 terminating the services of the Petitioner or the further order dated 17th June, 2019 rejecting his appeal against the order dated 10th January 2018.

16. The writ petition is accordingly dismissed. No costs.

S.MURALIDHAR, J

TALWANT SINGH, J

AUGUST 26, 2019
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