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

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Date of decision: 07.07.2022

+ W.P.(C) 3987/2022 & CM APPL. 11882/2022 & 18487-88/2022

ROSHAN KUMAR

..... Petitioner

Through: Mr.Abhay Kumar Bhargava &
Mr.Satyaarth B. Sinha, Advs.

versus

**UNION OF INDIA ORS THROUGH
SECRETARY MHA & ORS.**

..... Respondents

Through: Ms.Nidhi Raman, CGSC with
Mr.Zubin Singh, Adv. for UOI.

CORAM:

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SAURABH BANERJEE**

J U D G M E N T (oral)

1. By way of the present petition, petitioner prays for calling of records of the impugned order dated 17.02.2022 and 27.05.2021 and quash the same and direct the respondents to reinstate the petitioner in service with all consequential benefits including three chargesheets issued by the respondents.
2. On the last date of hearing, learned counsel for the respondents raised a preliminary objection that prior to filing the present petition, the petitioner



had already filed a petition being CWP No.10777/2019 titled as '*Roshan Singh vs. Union of India & Ors.*' before High Court of Punjab & Haryana challenging all the three chargesheets, thus, the present petition is not maintainable.

3. On a perusal of the records of the present petition, we find that it is not in dispute that in the present petition, petitioner did not mention regarding pendency of CWP No.10777/2019 before the High Court of Punjab & Haryana. It is, at this stage, that now counsel for the petitioner has admitted that the aforesaid CWP No.10777/2019 was filed before The High Court of Punjab & Haryana challenging the chargesheet dated 30.05.2018 under the provisions of the Border Security Force Act, 1968 and that an interim order was passed vide order dated 20.05.2019 therein, however, the same was vacated vide order dated 23.02.2021.

4. The learned counsel for the petitioner further submits that in the meanwhile, the petitioner filed a LPA No.317/2021 (O & M) before the Division Bench and the same was dismissed vide order dated 22.03.2021 by the said court and that after vacation of the interim order dated 20.05.2019, vide order dated 23.02.2021, respondents amended second chargesheet on 08.04.2021 and that the petitioner is suffering punishment pursuant to the



said amended chargesheet and thereafter, the CWP No. 10777/2019 was dismissed as withdrawn vide order dated 25.03.2022 without seeking any liberty.

5. It is thus clear from the afore-noted facts that the second chargesheet was amended on 08.04.2021 during the pendency and much prior to the dismissal of the CWP No.10777/2019. As apparent from the aforesaid, the petitioner did not bother to amend the CWP No. 10777/2019 while it was pending before the High Court of Punjab & Haryana and then he has been guilty of not mentioning about the pendency/filing of the earlier CWP No. 10777/2019 before the High Court of Punjab & Haryana at the time of filing of the present petition.

6. Since there is a concealment of the facts, therefore, present petition deserves to be dismissed with heavy cost, however, keeping in view the fact that the petitioner is suffering punishment for 2 years imprisonment since 27.05.2021 pursuant to chargesheet dated 08.04.2021, we hereby refrain from imposing any costs.

7. In view of the aforesaid facts, present petition is accordingly dismissed.

8. Since the High Court of Punjab & Haryana has been seized with the



issue(s) at an earlier period for a lengthy period of time in CWP No.10777/2019 and the appeal mentioned above, liberty is granted to the petitioner to challenge the second amended chargesheet before the said Court.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

JULY 07, 2022/ab

