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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: September 26, 2022

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W.P.(C) 13879/2022 & CM APPL. 42404/2022**GAURAV KUMAR SHARMA****..... Petitioner****Through: Mr. Ashish Pandey, Advocate.****versus****UNION OF INDIA & ORS.****..... Respondents****Through: Mr. Neeraj, SPC with Mr. Sahaj Garg, Mr. Rudra Paliwal and Mr. Vedanshu Anand, Advocates with Dy. Comdt. (Law) Hemendra Singh for BSF.****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, the petitioner is seeking following reliefs:-

a) issue writ, order or direction under article 226 of the constitution of India in nature of certiorari, writ of mandamus or any other appropriate writ against the order of dismissal dated 09.03.2015, issued under rule 23 - a of the border security force rule, vide F. NO. ESTT / GKS / DISMISSAL / 30BN / 2015 (ORDER DISMISSAL NO. 082542201) by the office of the Commandant, 30 Bn BSF, Haripar Road, Bhuj, Gujarat; and

b) Issue writ, order(s) or direction(s) in the nature of mandamus or any other appropriate writ, order or direction to the respondent/ department to re-instate the petitioner in service with all the consequential benefits;



2. It is the case of the petitioner that vide judgment and order dated 26.07.2014 passed in Session Trial No. 1030/ 2012 arising out of FIR/ Case Crime No. 223 of 2012, the Ld. Additional District & Sessions Judge, Court No. 11, Meerut, Uttar Pradesh sentenced the petitioner for imprisonment of life and fine of Rs. 30,000/- under section 304-B IPC, 03 years rigorous imprisonment and fine of Rs. 5,000/- for the offence under section 498A IPC and 01 year rigorous imprisonment and fine of Rs. 5,000/- for the offence under section 04 of Dowry Prohibition Act. Thereafter, the petitioner vide order No. Estt/GKS/ Dismissal/ 30Bn/ 2015/6120 dated 09.03.2015 passed by the office of the commandant, 30 Bn BSF, Haripar Road, Bhuj (Gujarat), was dismissed from service.

3. Learned counsel for the petitioner submits that the petitioner has challenged the order of conviction by way of a Criminal Appeal No.2981/2014, which is awaiting adjudication before the High Court of Judicature at Allahabad.

4. In view thereof, after some arguments learned counsel appearing on behalf of the petitioner seeks to withdraw the present petition with liberty to take a chance again if he is finally acquitted by the Appellate Court.

5. Permission granted with liberty as prayed for.

6. Petition alongwith pending application is accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

SEPTEMBER 26, 2022/So

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