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

% Judgment delivered on: 27th September, 2023

+ W.P.(C) 7602/2019

DEVENDER KUMAR

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Sandeep Mishra and Ms. Nandika Vyas, Advocates.

For the Respondents: Mr. Vijay Joshi with Mr. Gurjas Singh Narula, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns orders dated 26.07.2018, 27.10.2018 and 07.05.2019 whereby it is directed that petitioner shall not be paid any wages between the period of his termination to the date of his reinstatement on the principle of 'no work no pay'.

2. Learned counsel for the petitioner submits that petitioner was terminated from service and thereafter was reinstated on the representation of the petitioner. He relies on the decision of the Supreme Court in *Shobha Ram Raturi vs Haryana Vidyut Prasaran Nigam*: 2016 SCC 663 to contend that the principle of "no work no



pay” should not be uniformly applied and petitioner should have been granted wages for the period when he was wrongfully terminated.

3. Per contra, learned counsel for the respondents contends that petitioner was terminated on a valid ground, however, keeping in view the facts and circumstances of the case, the representation of petitioner for reinstatement was accepted and petitioner was granted all benefits of continuity of service except for wages for the period that he stood terminated.

4. Petitioner had participated in a recruitment process for the post of Constable (Driver) in Central Industrial Security Force and was selected on 28.12.2013.

5. Subsequently by order dated 19.10.2014, services of petitioner were terminated on account of suppression of facts in the attestation form regarding registration of the criminal case against the petitioner. Petitioner thereafter made a representation to respondents, which was rejected. Petitioner thereafter approached this Court by W.P.(C) 2916/2017. By judgment dated 19.02.2018 in W.P.(C) 2916/2017, the case of petitioner was directed to be treated as a representation and decided in light of the judgment of the Supreme Court in *Avtar Singh vs. Union of India* : (2016) 8 SCC 471. Pursuant thereto, orders dated 26.07.2018 and 27.10.2018 have been passed reinstating the petitioner but denying back wages.

6. Petitioner, admittedly, was involved in a case registered on 10.03.2006 under Sections 323/341/325/447/34 of India Penal Code.



As per the petitioner, said offence was compounded with the permission of the Court and petitioner was acquitted on 31.03.2006.

7. Petitioner did not disclose about the said FIR in his verification form filled at the time of the recruitment. Consequent to suppression of the said information, services of petitioner was terminated.

8. Pursuant to the directions of this Court, the termination order had been set aside and petitioner was placed before the Screening Committee and his case was re-examined in terms of the judgment of the Supreme Court in *Avtar Singh* (supra) and it was directed that petitioner be reinstated into service. Petitioner was consequently reinstated on 04.08.2018.

9. Impugned order has directed that the intervening period from the date of termination from service to the date of reinstatement into service, i.e., 19.10.2014 to 03.08.2018 shall be treated as continuity of service along with seniority, notional increments etc., however, without any back wages on the principle of “no work no pay”.

10. Reliance placed by learned counsel for the petitioner on *Shobha Ram Raturi* (supra) is misplaced for the reason that the Supreme Court has not held that in no case can the principle of “no work no pay” be made applicable. The principle of “no work no pay” is made applicable where the termination is attributable to a cause provided by the petitioner. In case the termination of petitioner is held to be illegal and contrary of Rules, then in those cases the principle of “no work no pay” may not be applicable. However, in the instant case, the



termination of the petitioner was effected on account of non-disclosure and concealment of valid information by petitioner in his verification from about involvement in a criminal case.

11. Reference may be had to the decision of the Supreme Court in *Om Pal Singh vs. Disciplinary Authority & Ors.*: 2023 (3) SCC 103 wherein the Supreme Court has held that where the reinstatement is a consequence of imposition of a lesser punishment, neither back-wages nor continuity of service nor consequential benefits follow as a natural or necessary consequence of such reinstatement. It was further held that where the Court held that misconduct was held to be proved, reinstatement by itself was a consequential benefit arising from imposition of a lesser punishment and award of back wages for the period when the employee had not worked could amount to rewarding the delinquent employee and punishing the employer for taking action against the misconduct committed by the employee.

12. In the instance case, as noticed hereinabove, the termination order was passed on account of incorrect information being filled in the verification form, i.e., non-disclosure of involvement in a criminal case. The employer has decided to impose a lesser punishment of reinstatement.

13. In terms of *Om Pal Singh* (supra), back wages, continuity of service and consequential benefits are not a natural and necessary consequence of such reinstatement. However, in the case of petitioner, the authorities have been benevolent enough to grant him



full continuity of service with all consequential benefits including seniority except back wages.

14. Clearly, it is not a case where the respondents were at fault in terminating the petitioner in the first instance. The termination happened on account of a conduct attributable solely to the petitioner, i.e., concealment of a material fact. In those circumstances, we are of the view that the judgment in the case of *Shobha Ram Raturi* (supra) would not be applicable to the facts of the present case.

15. Respondents have already shown enough indulgence to the petitioner in revoking his termination and directing his reinstatement with all consequential benefits including continuity of service with seniority and notional increment, etc.

16. In view of the above, we find no merit in the petition. Petition is consequently dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

SEPTEMBER 27, 2023
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