

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No.397/2011

Date of decision:18.10.2011

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER,  
HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.**

Narpat Singh S/o Chawand Singh, age 45 years, R/o village & post Birami, Via Banar, Tehsil & District Jodhpur. Terminated from the post of Khalasi in the office of Sr. Section Engineer, C&W, Udaipur City, Ajmer Division, N.W. Railway.

: Applicant.

**Mr. P.R. Singh counsel for applicant.**

**Versus**

1. The Union of India, through the General Manager, North Western Railway Headquarter, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer.
3. Assistant Mechanical Engineer (C&W) (Establishment), North Western Railway, Ajmer Division, Ajmer.
4. Senior Section Engineer (C&W), North Western Railway, Udaipur City.

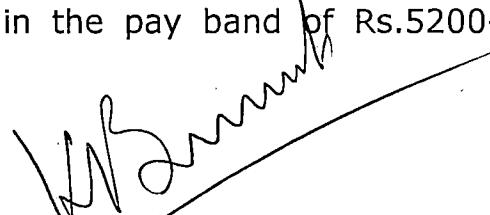
: Respondents.

**Mr. Salil Trivedi, counsel for respondents.**

**ORDER (ORAL)**

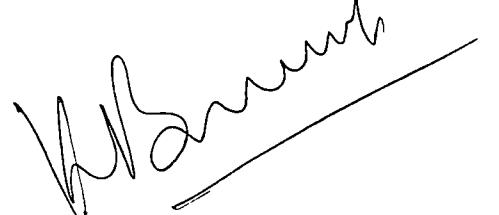
**Per Dr. K.B. Suresh, Judicial Member**

Much ado about nothing, seems to be the crux of the matter. We have heard both the learned counsels in detail. A person, who had served for more than 22 years in the Indian Army, was discharged from service honourably on 31.12.2009. Thereafter in the year 2011, i.e. on 19.07.2011, he was selected for appointment on the post of Khalasi in the pay band of Rs.5200-20200 with

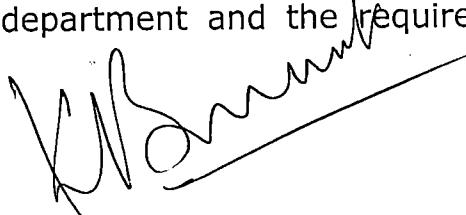


grade pay of Rs.1800/- with all admissible allowances. He joined on the post of Khalasi in the respondent department on 20.07.2011. But, on 06.09.2011 the respondent No.4 informed him that his services are being terminated with immediate effect. Apparently, at that time, the Railway had came to know that an FIR under Section 341, 323/34 I.P.C., was lodged against the applicant and he was acquitted on 13.01.1999 i.e. 12 years before and when he was honourably discharged from his duties from Indian Army, this case was never a stumbling blocked as on the basis of a compromise effected between two brothers at the first stage itself he was acquitted before the charge could be framed. Even the charges alleged are petty and have no connection to moral turpitude. It appears as just an extension of a civil dispute regarding family property between two brothers and nothing else.

2. The Railway now claims that the word "अभियोग" conveys much more deeper and graver meaning and that the applicant being bound to disclose involvement of any issue of criminal nature, and the word "prosecution" thus generated is to include an FIR also, which even though was set aside by acquittal at the first stage itself, would also thus <sup>have</sup> to be disclosed. In support of this, the learned counsel for the respondents relies on the judgment of Hon'ble Apex Court in **Union of India and others vs. Sukhen Chandra Das**, reported in (2010) 1 SCC (L&S) 911, wherein their Lordships had considered termination of service simpliciter on the basis of furnishing of wrong information, and held that termination



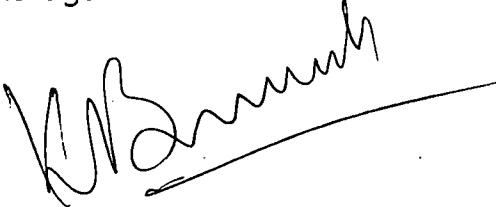
was neither stigmatic/punitive nor was it actuated by any motive in relation to selection in the Armed Forces of the country (for short C.R.P.F.). He would focus our attention to paragraph 14 of that order and say that the order of termination of the respondent recorded by the competent authority is innocuous on its face and purports to be an order of discharge in accordance with the terms and conditions of the appointment of "**a temporary government servant**". But it is trite law that a temporary government servant can be discharged from service if such discharge is said to be a simple discharge even without assigning any reason, but it should only not to be punitive or stigmatic and actuated by any motive. Therefore, the facts of this case are not related to the present case herein because the applicant while being discharged was **not a temporary government servant but a regular government servant**. The learned counsel for the respondents also relies on the judgment of Hon'ble Apex Court in **R. Radhakrishnan vs. Director General of Police and others**, reported in (2008) 1 SCC (L&S) 283, wherein the Hon'ble Apex Court held that on the applicant therein seeking appointment to a uniformed service, and the standard expected to be served in such a service is different, and since he was furnishing wrong information about his involvement in a Criminal Case under IPC, Section 249 (b) though he was acquitted, their Lordships had held that the employer had a right to look into the effect of all this. But this decision is not applicable herein as the applicant herein has been appointed as a Khalasi in the respondent department and the requirements are



thus far different. This decision examined the suitability in relation rigorous criteria to be evolved in a significant service and not of the level of a Khalasi.

3. Therefore, the crux of the matter is that what is the cause and effect of self attestation form and an employer's right to know about the past life of an employee, who applies for appointment?

4. The applicant has produced the ruling of the Hon'ble Apex Court reported in (2011) 4 SCC (L&S) 644 of **Commissioner of Police & others vs. Sandip Kumar**, wherein the applicant had apparently concealed his involvement in criminal case when he was aged about 20 years. Their Lordships agreed with the view taken by the High Court that offence related to a petty matter and that young people often commit indiscretions and approach should be to condone such indiscretions rather than branding them as criminals for the rest of their lives. This according to us would appear to cover the issue of the present case as well. In the present case, the brother of the applicant filed a complaint against the applicant, which complaint was forwarded to the Police for investigation under Section 156 (3) and immediately an FIR was registered. It is stated that the matter was settled between the applicant and his brother and thereafter the applicant was acquitted even before the stage of Section 239. Whether he was acquitted under Section 256 or under Section 320, is not available, but whether he was acquitted under both sections, the result is that it completely wipes off personal penal obligations against him. It is trite law that any



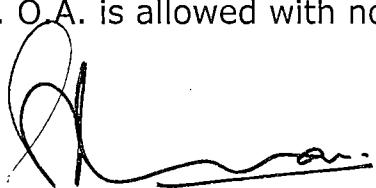
citizen can file a complaint against any person and **just because of that complaint, the person to be held ineligible for appointment for government jobs would be wholly against the constitutional matrix.** This is especially so when the person was discharged from that allegation and stood cleared of it before a decade itself.

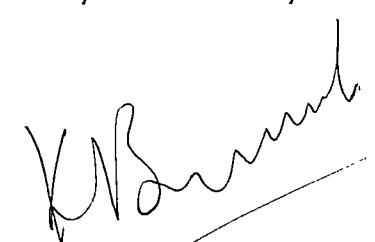
5. We also note that the respondents had not even heard the applicant before terminating his services. At this juncture, the learned counsel for the respondents would say that in the appointment order itself it is mentioned that if the applicant is found to have made any wrong statement in his self attestation form, then his appointment can be cancelled at any stage. Since the applicant was under a genuine impression that the matter, which was already settled at the very first stage, is not still pending, and merely because that this has been withheld, there is no prejudice attached to it. It will not cause any prejudice for anybody for the simple reason that the incident had been wiped off from official knowledge by the act of the Magistrate and it cannot be resurrected once again. The incident is trivial and is of minor nature. The incident was more than 12 years before his selection and basically is of civil nature. Therefore, the order passed by the authorities are not in accordance with the Constitutional matrix, and justice considered from all aspects, and also we regret to find that even when the matter has been taken up, the Railway had taken a view which is contrary to public policy as expressed by the

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Hon'ble Apex Court in Sandip Kumar's case. Therefore, the orders dated 05.09.2011 (Annexure-A/1) and dated 06.09.2011 (Annexure-A/2) cannot lie in the eyes of law and ~~it is~~ <sup>are</sup> hereby ~~be~~ quashed. The respondents are directed to reinstate the applicant within one month next with all consequential benefits.

6. The O.A. is allowed as stated above. But since the concerned official may have acted with a view to ensure purity in administration, and may be also without any oblique motive against the applicant personally, we are not imposing any cost upon the respondents even though the applicant was needlessly harassed by them. O.A. is allowed with no order as to costs.

  
**[Sudhir Kumar]**  
**Administrative Member**

  
**[Dr. K.B. Suresh]**  
**Judicial Member**