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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6238 OF2021

(ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 23856 OF 2014)

UNION OF INDIA AND OTHERS ...APPELLANTS

VERSUS

METHU MEDA ...RESPONDENT

J U D G M E N T

J.K. MAHESHWARI, J.

Leave granted.

2. Questioning the validity of the order passed in Writ Appeal No. 1090 of 2013 on 20.12.2013 upholding the order of the learned Single Judge passed on 27.09.2013 in Writ Petition No. 3897 of 2013, this appeal has been preferred.

3. The facts unfolded in the present case are that the respondent was found involved in an offence of kidnapping of Nilesh for demand of ransom. An FIR was registered against him on 22.8.2009. After investigation challan was filed, and

he was tried before the Sessions Court, Jhabua, Madhya Pradesh in Sessions Case Serial No. 1 of 2010 for the charge framed against him under Sections 347/327/323/506 (Part-II) and 364A IPC. The Sessions Court acquitted him for the said charge because the complainant, who was abducted, turned hostile in the Court. Thereafter, respondent applied for the post of Constable in Central Industrial Security Force (for short "CISF") and got selected through the Staff Selection Commission (for short "SSC"). An offer of appointment for provisional selection to the post of Constable/GD was issued to the respondent on 30.3.2012, subject to the conditions given in the agreement form. The respondent was required to furnish the documents including attestation forms, certificate of character, character and antecedent certificate from local Station House Officer. The respondent, while submitting the attestation form, specified the registration of above-said criminal case and acquittal from the charges in a trial by the competent court.

4. As the offer of appointment was conditional, therefore, in terms of the CISF Circular No. E-EG7023/TRG.SEC/ADM.I/CIRCULARS/2010-1157 dated 31.03.2010. he was not allowed to join training. The Ministry of Home Affairs vide letter No. I-45020/6/2010-Pers.II issued the guidelines on 01.02.2012 for consideration of the cases of the candidates against whom criminal cases were registered or tried by the courts.

5. In furtherance to the said guidelines, the case of the respondent was referred to AIG(L&R), CISF Hqrs, New Delhi with an information to IG/TS, CISF(TS) NISA, Hyderabad vide letter No. F37023/CISF/RTC(D)/Trg./CBG/2012/2656 dated 04.05.2012. The Standing Screening Committee assembled on 27.07.2012 and examined the cases of 89 candidates including the respondent and on 15.10.2012 passed an order that respondent was not eligible for appointment.

6. Questioning the validity of the said action and asking for consequential reliefs, Writ Petition No. 3897 of 2013 was filed before the High Court of Madhya Pradesh, Indore Bench. The

learned Single Judge, vide order dated 27.09.2013, allowed the Writ Petition directing the respondents therein to issue an order for sending the respondent herein on training commencing with effect from 21.10.2013. The Court further held that he would be entitled for all consequential benefits including seniority, notional fixation of salary etc. but back wages were denied. The said order was assailed before the Division Bench by filing Writ Appeal, but it was also dismissed, which led to filing the present appeal through the department.

7. The validity of the order passed by the learned Single Judge and also by the Division Bench have been assailed, inter alia, contending, until the respondent is honourably acquitted from the charge involving moral turpitude and the decision of the Screening Committee is not passed mala fide, interference in such decision is not warranted. Reliance is placed on the decision of this Court in ***Inspector General of Police & Another vs. S. Samuthiram*** (2013) 1 SCC 598 to clarify the meaning of 'honourable acquittal'.

8. It is argued that merely making a disclosure of the criminal case in the attestation form is not sufficient. As per the Policy Guidelines dated 01.02.2012, in view of involvement of the respondent in heinous offences including the offences under Sections 327/347/364A IPC, he would not be entitled for appointment until honourably acquitted. Even though, the respondent has been provisionally selected vide letter dated 30.03.2012, issued by the Chairman of the Recruitment Board, but mere acquittal giving benefit of doubt, as the witnesses have turned hostile, would not make the candidate suitable for appointment. The impugned orders passed by the High Court of Madhya Pradesh are contrary to the law laid down in the case of ***Avtar Singh vs. Union of India and Others*** (2016)8 SCC 471, ***Commissioner of Police, New Delhi and Another vs. Mehar Singh*** (2013)7 SCC 685, ***State of Madhya Pradesh and Others vs. Abhijit Singh Pawar*** (2018) 18 SCC 733, ***State of Rajasthan and Others vs. Love Kush Meena*** 2021(4) SCALE 634 and ***Commissioner of Police vs. Raj Kumar*** 2021(9) SCALE 713. It is urged that

acquittal in a criminal case is not conclusive for suitability of the candidate for appointment. Thus, unless the respondent is honourably acquitted in a criminal case, it would not automatically entitle him for appointment to the post.

9. Per contra, learned counsel for the respondent contended that the Single Judge as well as the Division Bench of the High Court of Madhya Pradesh have considered the judgment of Delhi High Court in the case of ***Rahul Yadav vs CISF and another***, 178(2011) DLT 263, where the High Court observed that the situation and background of the candidates hailing from the rural areas were relevant factors for consideration. Mere registration of a criminal case and acquittal from the said charges, would not disentitle him from appointment. The special leave petition preferred against the said judgment has been dismissed by this Court on 05.10.2012. On the point of defining the 'acquittal', the judgment in ***Panna Mehta vs. State of M.P.*** *(2002)* 4 M.P.H.T. 226 has been relied and urged that if the respondent has not concealed the material fact and specified details in the attestation form regarding the criminal

case, trial and its result, it would not disentitle him from appointment to the post, in particular when in Bombay High Court, in the case of similarly situated person Ramesh has been sent on training. It is urged that the impugned order passed by the High Court is in conformity to law. The judgment in ***Panna Mehta*** (supra) is, however, distinguishable on facts in that a similarly situated person had been sent on training.

10. After having heard learned counsel for the parties at length, the question which arises in the present appeal is whether the decision of the Screening Committee rejecting the candidature of the respondent, when there was no allegation of malice against the Screening Committee and the respondent-writ petitioner had been acquitted of serious charges, inter alia, of kidnapping for ransom as some prosecution witnesses had turned hostile, ought to have been interfered with.

11. While addressing the question, as argued the meaning of expression 'acquittal' is required to be looked into. The

expressions 'honourable acquittal', 'acquitted of blame' and 'fully acquitted' are unknown to the Code of Criminal Procedure or the Indian Penal Code. It has been developed by judicial pronouncements. In the case of ***State of Assam & Another vs. Raghava Rajgopalachari***, (1972) 7 SLR 44, the effect of the word 'honourably acquitted' has been considered in the context of the Assam Fundament Rules (FR) 54 (a) for entitlement of full pay and allowance if the employee is not dismissed. The Court has referred the judgment of ***Robert Stuart Wauchope vs. Emperor*** reported in (1934) 61 ILR Cal. 168, in the context of expression 'honourably acquitted', Lord Williams, J. observed as thus:

> "The expression "honourably acquitted" is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extra judicial tribunals. We said in our judgment that we accepted the explanation given by the Appellant believed it to be true and considered that it ought to have been accepted by the Government authorities and by the magistrate. Further we decided that the Appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the Appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what Government authorities term "honourably acquitted". "

12. In the case of ***R.P. Kapur vs. Union of India*** AIR 1964 SC 787, it is observed and held by Wanchoo, J., as thus:

> "Even in case of acquittal, proceedings may follow where the acquittal is other than honourable."

13. In view of the above, if the acquittal is directed by the court on consideration of facts and material evidence on record with the finding of false implication or the finding that the guilt had not been proved, accepting the explanation of accused as just, it be treated as honourable acquittal. In other words, if prosecution could not prove the guilt for other reasons and not 'honourably' acquitted by the Court, it be treated other than 'honourable', and proceedings may follow.

14. The expression 'honourable acquittal' has been considered in the case of ***S. Samuthiram*** (supra) after considering the judgments of ***Reserve Bank of India vs. Bhopal Singh Panchal*** *(1994)1 SCC 541*, ***R.P. Kapur*** (supra), ***Raghava Rajagopalachari*** (supra); this Court observed that the standard of proof required for holding a person guilty by a

criminal court and enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing guilt of the accused is on the prosecution, until proved beyond reasonable doubt. In case, the prosecution failed to take steps to examine crucial witnesses or the witnesses turned hostile, such acquittal would fall within the purview of giving benefit of doubt and the accused cannot be treated as honourably acquitted by the criminal court. While, in a case of departmental proceedings, the guilt may be proved on the basis of preponderance and probabilities, it is thus observed that acquittal giving benefit of doubt would not automatically lead to reinstatement of candidate unless the rules provide so.

15. Recently, this Court in ***Union Territory, Chandigarh Administration and Ors. vs. Pradeep Kumar and Anr.*** (2018) 1 SCC 797, relying upon the judgment of **S. *Samuthiram*** (supra) said that acquittal in a criminal case is not conclusive of the suitability of the candidates on the post concerned. It is observed, acquittal or discharge of a person

cannot always be inferred that he was falsely involved or he had no criminal antecedent. The said issue has further been considered in ***Mehar Singh*** (supra) holding non-examination of key witnesses leading to acquittal is not honourable acquittal, in fact, it is by giving benefit of doubt. The Court said nature of acquittal is necessary for core consideration. If acquittal is not honourable, the candidates are not suitable for government service and are to be avoided. The relevant factors and the nature of offence, extent of his involvement, propensity of such person to indulge in similar activities in future, are the relevant aspects for consideration by the Screening Committee, which is competent to decide all these issues.

16. In the present case, the charges were framed against the respondent for the offences punishable under Sections 347/327/323/506(Part-II) and 364A IPC. He was acquitted after trial vide judgment dated 19.03.2010 by the Sessions Judge, Jhabua because the person kidnapped Nilesh and also his wife have not supported the case of prosecution. As per

prosecution, the complainant was beaten by the respondent and the said fact found support from the evidence of doctor. Therefore, it appears that the Committee was of the view that acquittal of the respondent, in the facts of the present case, cannot be termed as 'honourable acquittal' and the said acquittal may be treated by giving benefit of doubt.

17. The law with regard to the effect and consequence of the acquittal, concealment of criminal case on appointments etc. has been settled in the case of ***Avtar Singh*** (supra), wherein a three-Judge Bench of this Court decided, as thus:

> "**38**. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarize our conclusion thus:
>
> "**38.1** Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.
>
> **38.2**. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special

circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. 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 :

38.4.1. 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.

38.4.2 Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3 If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a 3 case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in character verification form regarding pendency of

a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a 4 person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or 5 submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him."

18. In view of the above, in the facts of the present case, as per paras 38.3, 38.4.3 and 38.5, it is clear that the employer is

having right to consider the suitability of the candidate as per government orders/instructions/rules at the time of taking the decision for induction of the candidate in employment. Acquittal on technical ground in respect of the offences of heinous/serious nature, which is not a clean acquittal, the employer may have a right to consider all relevant facts available as to the antecedents, and may take appropriate decision as to the continuance of the employee. Even in case, truthful declaration regarding concluded trial has been made by the employee, still the employer has the right to consider antecedents and cannot be compelled to appoint the candidate.

19. If we look into the facts of the present case, the instructions of the Home Department dated 1.02.2012, prevalent at the time of selection and appointment specify such candidate would not be considered for recruitment. In Circular No. 2/2010 dated 31.03.2010, issued by the Office of the Training Sector, National Industrial Security Academy, Central Industrial Security Force (Ministry of Home Affairs), it

is clarified if a candidate is found involved in any criminal case, whether it is finalized or pending, the candidate may not be allowed to join without further instructions from the headquarter. After seeking instructions from the headquarter, the Standing Committee has taken the decision on 15.10.2012 that because of acquittal giving benefit of doubt, the respondent-writ petitioner was not considered eligible for appointment in CISF.

20. In the aforesaid fact, guidance can further be taken from the judgment of ***Mehar Singh*** (supra), in paras 23, 34, 35, this Court observed, as thus:

> 23. A careful perusal of the policy leads us to conclude that the Screening Committee would be entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they are acquitted or discharged if it feels that the acquittal or discharge is on technical grounds or not honourable. The Screening Committee will be within its rights to cancel the candidature of a candidate if it finds that the acquittal is based on some serious flaw in the conduct of the prosecution case or is the result of material witnesses turning hostile. It is only experienced officers of the Screening Committee who will be able to judge whether the acquitted or discharged candidate is likely to revert to similar activities in future with more strength and vigour, if appointed, to the post in a police force. The Screening Committee will have to consider the nature and extent of such person's involvement in

the crime and his propensity of becoming a cause for worsening the law and order situation rather than maintaining it. In our opinion, this policy framed by the Delhi Police does not merit any interference from this Court as its object appears to be to ensure that only persons with impeccable character enter the police force.

34. The respondents are trying to draw mileage from the fact that in their application and/or attestation form they have disclosed their involvement in a criminal case. We do not see how this fact improves their case. Disclosure of these facts in the application/attestation form is an essential requirement. An aspirant is expected to state these facts honestly. Honesty and integrity are inbuilt requirements of the police force. The respondents should not, therefore, expect to score any brownie points because of this disclosure. Besides, this has no relevance to the point in issue. It bears repetition to state that while deciding whether a person against whom a criminal case was registered and who was later acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of doubt because the witnesses turned hostile or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future. This decision, in our opinion, can only be taken by the Screening Committee created for that purpose by the Delhi Police. If the Screening Committee's decision is not mala fide or actuated by extraneous considerations, then, it cannot be questioned.

35. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost

> rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent times, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by the Delhi Police to ensure that persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of trust reposed in it and must treat all candidates with even hand.

21. In view of the aforesaid, it is clear the respondent who wishes to join the police force must be a person of utmost rectitude and have impeccable character and integrity. A person having a criminal antecedents would not be fit in this category. The employer is having right to consider the nature of acquittal or decide until he is completely exonerated because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The

Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee and the decision of the Committee would be final unless mala fide. In the case of ***Pradeep Kumar*** (supra), this Court has taken the same view, as reiterated in the case of ***Mehar Singh*** (supra). The same view has again been reiterated by this Court in the case of ***Raj Kumar*** (supra).

22. As discussed hereinabove, the law is well-settled. If a person is acquitted giving him the benefit of doubt, from the charge of an offence involving moral turpitude or because the witnesses turned hostile, it would not automatically entitle him for the employment, that too in disciplined force. The employer is having a right to consider his candidature in terms of the circulars issued by the Screening Committee. The mere disclosure of the offences alleged and the result of the trial is not sufficient. In the said situation, the employer cannot be compelled to give appointment to the candidate. Both the Single Bench and the Division Bench of the High Court have not considered the said legal position, as discussed above in

the orders impugned. Therefore, the impugned orders passed by the learned Single Judge of the High Court in Writ Petition No. 3897 of 2013 and Division Bench in Writ Appeal No. 1090 of 2013 are not sustainable in law, as discussed hereinabove.

23. Accordingly, this appeal is hereby allowed and the impugned orders are set-aside. No order as to costs.

.....J.
[INDIRA BANERJEE]

.....J.
[J.K. MAHESHWARI]

NEW DELHI;
OCTOBER 6, 2021.