



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO. 18847 OF 2023 (S-KSAT)

BETWEEN:

SRI. GURUPRASAD. R
AGED ABOUT 42 YEARS,
S/O. LATE SRI. RANGASWAMY SHETTY,
RESIDING AT NO.37,
LIG HOUSING BOARD,
(NEAR FOREST OFFICE),
3RD STAGE, HUNUSUR TOWN,
MYSORE DISTRICT-571 105.

...PETITIONER

(BY SRI. S M BABU, ADV.)

AND:

THE SUPERINTENDENT OF POLICE
MYSORE DISTRICT,
MYSORE-570 011.

...RESPONDENT

(BY SRI. HARISHA A.S., AGA)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ALLOW THE WP BY ISSUE OF A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT ORDER OR DIRECTION AS THE CASE MAY BE QUASH ANNEXURE-A1, IN MYS/EST1/CG/19/2021-EST1-SP-MYS, DATED 13.09.2022 PASSED BY THE RESPONDENT AND B) BY ISSUE OF A WRIT OF MANDAMUS OR ANY OTHER ORDER OR DIRECTION, DIRECT THE RESPONDENT TO RE-CONSIDER THE CASE FOR APPOINTMENT ON COMPASSIONATE GROUND TO THE APPLICANT.



THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER
WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

Though the matter is listed for orders, with the
consent of learned counsel appearing for the parties, the
same is taken up for final disposal.

2. Heard learned counsel Sri.S.M.Babu for
petitioner and learned Additional Government Advocate
Sri.Harisha.A.S., for the respondent.

3. Petitioner's father was working in the Police
Department as Assistant Sub-Inspector and he died while
in service on 17.02.2018. It is stated that petitioner made
an application on 10.08.2018 seeking compassionate
appointment on his father's death. The request of the
petitioner was rejected under endorsement dated
29.09.2018 (Annexure-A4) on the ground that criminal



case in Crime No.264/2015 and in CC No.44/2017 under Sections 177, 403 and 408 of IPC is pending.

4. On his acquittal in the criminal proceedings, the petitioner made second application on 10.08.2021 seeking compassionate appointment. The said application is also rejected under impugned endorsement dated 13.09.2022 (Annexure-A1) placing reliance on the decision of the Hon'ble Apex Court in the case of **STATE OF MADHYA PRADESH AND OTHERS VS. PARVEZ KHAN (CIVIL APPEAL NO.10613/2014 (SLP(C).NO.36237/2012)**, wherein the Hon'ble Apex Court has observed that mere acquittal in a criminal case would not automatically entitle one for being declared fit for appointment to Government Service. Questioning the said endorsement, the petitioner was before the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal') in Application No.4705/2022. The Tribunal by order dated 24.06.2023 refused to interfere with the endorsement and dismissed the petitioner's application. Questioning the impugned



order passed by the Tribunal as well as the endorsement of the respondent, the petitioner is before this Court in this writ petition.

5. Learned counsel Sri.S.M.Babu for petitioner would submit that when the petitioner has been acquitted in the criminal proceedings, the petitioner would become entitled for consideration of his case for compassionate appointment. Learned counsel would submit that acquittal of the petitioner is on full trial and on examination of PW1 to PW3 and on marking of Ex.P1 to Ex.P17 by the prosecution. When the petitioner is acquitted of the alleged charges on trial, the petitioner would become entitled for consideration for compassionate appointment and he submits that rejection of his request for compassionate appointment is wholly illegal and unreasonable. Thus, he would pray for setting aside the impugned endorsement as well as order of the Tribunal.



6. Learned Additional Government Advocate on the other hand would support the order passed by the Tribunal as well as endorsement issued by the State Government by submitting that the petitioner's acquittal is not a honourable acquittal and he is acquitted as the witnesses examined in the criminal case turned hostile. Further, learned Additional Government Advocate would submit that it is within the discretion of the State Government to either to appoint or reject, depending on the charges alleged against such applicant, who seeks compassionate appointment. Thus, he would pray for dismissal of the writ petition.

7. Having heard the learned counsel appearing for the parties and also on perusal of the entire material on record, the only point which falls for our consideration is that,

Whether the petitioner has made out a case for interference with the impugned endorsement as well as the order passed by the Tribunal?



8. Answer to the above point would be in the negative for the following reasons:

There is no dispute that the petitioner's father was working in the respondent-Police Department as Assistant Sub-Inspector of Police and that his father died on 17.02.2018, while in service. It is also not in dispute that when he made application on 10.08.2018 seeking compassionate appointment, criminal case in CC.No.44/2017, under Sections 177, 403 and 408 of IPC was pending trial before the Civil Judge and JMFC, Periyapatna. As his first application for compassionate appointment was rejected on the ground of pendency of criminal case, the petitioner, upon his acquittal in the criminal case by judgment dated 08.12.2020, made second application seeking compassionate appointment on 10.08.2021. The said application was also rejected under endorsement dated 13.09.2022 and the relevant portion of the endorsement reads as follows:



"ನಿಮ್ಮ ತಂದೆಯವರಾದ ದಿ. ರಂಗಸ್ವಾಮಿ ಶೆಟ್ಟಿ ಕೆ.ಎಸ್.,
ಎಎಸ್‌ಐ, ಬೆಟ್ಟದಪುರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಕರ್ತವ್ಯ
ನಿರ್ವಹಿಸುತ್ತಿರುವಾಗ ಅನಾರೋಗ್ಯದಿಂದ ದಿ:17.02.2018 ರಂದು
ಮರಣ ಹೊಂದಿರುತ್ತಾರೆ. ಅನುಕಂಪದ ಆಧಾರದ ಮೇಲೆ
ನೇಮಕಾತಿ ನೀಡುವಂತೆ ದಿ:10.08.2018ರಂದು ಈ ಕಛೇರಿಗೆ
ಅನುಕಂಪದ ಆಧಾರದ ಮೇಲೆ ಅರ್ಜಿಯನ್ನು ಹಾಗೂ ಮೂಲ
ದಾಖಲಾತಿಗಳನ್ನು ಸಲ್ಲಿಸಿರುತ್ತೀರಿ. ದಾಖಲಾತಿ ಪರಿಶೀಲನೆಯಲ್ಲಿ
ಸರ್ಕಾರದ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ: ಸಿಆನುಇ 76 ಸನನಿ 2018,
ದಿ:15.02.2018 ಮತ್ತು ಕೆ.ಸಿ.ಎಸ್. (ಸಾಮಾನ್ಯ) ನೇಮಕಾತಿ
ನಿಯಮಗಳು 1977ರ ನಿಯಮ 10ರನ್ವಯ ಅಭ್ಯರ್ಥಿಗಳ ನಡತೆ
ಮತ್ತು ಪೂರ್ವ ಮತ್ತು ಚರಿತ್ರೆಯ ಪರಿಶೀಲನೆ ಇವರ ವಿರುದ್ಧ
ಪಿಲಿಯಾಪಟ್ಟಣ ಪೊಲೀಸ್ ಠಾಣೆ ಮೊ ಸಂಖ್ಯೆ: 264/2015 500
177, 403 & 408 ಐಪಿಸಿ ರೀತ್ಯ ಪ್ರಕರಣ ದಾಖಲಾಗಿ
ಸಿ.ಸಿ.ಸಂಖ್ಯೆ:44/2017ರನ್ವಯ ನ್ಯಾಯಾಲಯದಲ್ಲಿ
ವಿಚಾರಣೆಯಲ್ಲಿದ್ದುದರಿಂದ ಸಂಖ್ಯೆ: ಸಿಬ್ಬಂದಿ(1)/12/2018,
ದಿ:29.09.2018 ರಂದು ನೇಮಕಾತಿ ನೀಡಲು ನಿಯಮಾನುಸಾರ
ಸಾಧ್ಯವಾಗಿರುವುದಿಲ್ಲವೆಂಬ ಹಿಂಬರಹವನ್ನು ನೀಡಲಾಗಿತ್ತು.

ನೀವು ದಿ:16.12.2020ರಂದು ಈ ಕಛೇರಿಗೆ ಮತ್ತೊಂದು
ಮನವಿಯನ್ನು ಸಲ್ಲಿಸಿ, ಪಿಲಿಯಾಪಟ್ಟಣ ಪೊಲೀಸ್ ಠಾಣೆ ಮೊ
ಸಂಖ್ಯೆ: 264/2015 500 177, 403 & 408 ಐಪಿಸಿ ರೀತ್ಯ
ಪ್ರಕರಣವು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಿ.ಸಿ. ಸಂಖ್ಯೆ: 44/2017ರ ಅನ್ವಯ
ದಿ:08.12.2020ರಂದು ಪ್ರಕರಣವು ಖುಲಾಸೆಯಾಗಿರುವುದರಿಂದ
ಅನುಕಂಪದ ಆಧಾರದ ಮೇಲೆ ನೇಮಕಾತಿ ನೀಡುವಂತೆ
ದಿ:15.12.2020 ರಂದು ಕೋರಿರುತ್ತೀರಿ.



ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಸಿಬಿಲ್ ಅಫೀಲ್ ಸಂಖ್ಯೆ:
10613/2014 (ಎಸ್.ಎಲ್.ಪಿ (ಸಿ) ಸಂಖ್ಯೆ: 36237/2012) ರಲ್ಲಿ
ಮಧ್ಯಪ್ರದೇಶ್ ಮತ್ತು ಇತರರು V/S ಫರ್ವೀಜ್ ಖಾನ್ ಪ್ರಕರಣದ
ತೀರ್ಪಿನ ದಿ: 01.12.2014ರ ಅನ್ವಯ ಅಪರಾಧ ಪ್ರಕರಣಗಳಲ್ಲಿ
ಭಾಗಿಯಾದವರಿಗೆ ಅನುಕಂಪದ ಆಧಾರದ ಮೇಲೆ ನೇಮಕಾತಿ
ನೀಡಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲವಾದ್ದರಿಂದ ಹಿಂಬರಹ ನೀಡುವ ಬಗ್ಗೆ,
ಫೋಲೋನ್ ಪ್ರಧಾನ ಕಛೇರಿಗೆ ಸಮುಚಿತ ಮಾರ್ಗದಲ್ಲಿ
ಸ್ಲಸಲಾಗಿದ್ದು, ಸದರಿ ಪತ್ರದ ಪ್ರತಿಯನ್ನು ಹಾಗೂ ನೀವು
ಸ್ಲಸಿರುವ ಎಲ್ಲಾ ಮೂಲ ದಾಖಲಾತಿಗಳನ್ನು ಈ ಹಿಂಬರಹದೊಂದಿಗೆ
ಲಗತ್ತಿಸಿ ಕಳುಹಿಸಲಾಗಿದೆ."

The above would indicate that the Government while considering the case of petitioner for appointment on compassionate ground took note of the decision of the Hon'ble Apex Court in **PARVEZ KHAN** (supra) and rejected the request of petitioner for compassionate appointment.

9. The judgment in the case of **THE STATE OF MADHYA PRADESH AND OTHERS VS. BHUPENDRA YADAV (CIVIL APPEAL NO.27301/2018)** which considered the judgment of **THE STATE OF MADHYA PRADESH AND**



OTHERS V/S. PARVEZ KHAN (2015) 2 SCC 591 is placed before this Court whereunder the Hon'ble Apex Court is of the opinion that mere acquittal in a criminal case would not automatically entitle one for being declared fit for appointment to Government service. In ***BHUPENDRA YADAV*** (supra), a criminal case was registered against him and charges were framed under Sections 341, 354(D) of Indian Penal Code and Section 11(D)/12 of POCSO Act. During the trial, the complainant had turned hostile. The respondent therein had applied for the post of constable in the Police Department under the OBC category and participated in the selection process. Having qualified in the examination and physical tests, said Bhupendra Yadav was selected and appointed as Police Constable. In the verification form, the said Bhupendra Yadav disclosed information about his involvement in the criminal case and the order of acquittal passed by the Trial Court. Taking note of the acquittal of the said Bhupendra Yadav and observing that the charges were not proved beyond doubt,



the said Bhupendra Yadav was found unfit for the Government Service and was terminated from service. The said order was challenged before the High Court. Learned Single Judge of the High Court dismissed the writ petition against which Bhupendra Yadav filed writ appeal which was allowed with an observation that Bhupendra Yadav had fairly disclosed his involvement in the criminal case wherein he had been acquitted. Against the said order, the State filed appeal before the Hon'ble Apex Court. The Hon'ble Apex Court in the above facts, allowed the appeal of the State Government holding that mere acquittal of the respondent in the criminal case would not automatically entitle him for being declared fit for appointment to the State Service. Relevant paragraphs 16, 17, 18 and 19 reads as follows:

"16. We are, however, unable to concur with the aforesaid view. Even though the respondent had truthfully declared that he was involved in a criminal case which was decided by the trial court vide judgment dated 26-10-2015, on perusing the facts of the said case as noted hereinabove and the



observations made in the judgment, quite clearly, this was not a case of clean acquittal. It is evident from the facts narrated that after the charge-sheet was filed, the respondent had arrived at a compromise with the complainant and filed an application under Section 320CrPC, based on which the offence under Section 341IPC was compounded. As for the remaining offences for which the respondent was charged i.e. Section 354-DIPC and Section 11(D)/12 of the POCSO Act, they were non-compoundable and therefore, the matter was taken to trial. The respondent was acquitted by the trial court primarily on account of the fact that the complainant did not support the case set up by the prosecution and the other prosecution witnesses had turned hostile. In such circumstances, the respondent's plea that he had been given a clean acquittal in the criminal case, is found to be devoid of merits.

17. *This is a classic example of the situation contemplated in para 38.4.3 of Avtar Singh [Avtar Singh v. Union of India, (2016) 8 SCC 471 : (2016) 2 SCC (L&S) 425] where the charges framed against the respondent herein involved moral turpitude and though he was acquitted on the prosecution witnesses having turned hostile, but given the facts and circumstances of the case which*



led to his acquittal, we are of the view that the appellant State Government was well within its right to exercise its discretion against the respondent and terminate his services on the ground that he was unfit for appointment in the Police Department. Here was a case where the complainant had reneged from the statement made to the police in view of a settlement arrived at with the respondent. It is noteworthy that the incident, subject-matter of the criminal case [Vide Crime No. 64 of 2015, registered at PS Isagarh, District Ashok Nagar, under Sections 341, 354-D, 323, 34 IPC and under Sections 7, 8 and 11(d)/12 of the Protection of Children from Sexual Offences Act, 2012 (for short "the POCSO Act").] had occurred on 14-2-2015, and judgment was pronounced by the trial court on 26-10-2015. In the very next year, when the appellant State Government invited applications for appointment to the post of Constable, the respondent had submitted his application. Even though this is a case of candid disclosure of the criminal case [Vide Crime No. 64 of 2015, registered at PS Isagarh, District Ashok Nagar, under Sections 341, 354-D, 323, 34 IPC and under Sections 7, 8 and 11(d)/12 of the Protection of Children from Sexual Offences Act, 2012 (for short "the POCSO Act").] on the part of the respondent, which had culminated in an acquittal,



but having regard to the fact that the prosecution could not succeed in proving the case against the respondent for the reasons noted hereinabove and further, being mindful of the fact that the case involved moral turpitude and the respondent was charged with non-compoundable offences of a serious nature, we are of the firm view that the judgment of the trial court cannot be treated as a clean acquittal.

18. *The aforesaid aspects were rightly factored in by the appellant State Government while issuing the communication dated 24-8-2017 [No./SP/Ujjain/Est./P3756A/17 dated: 24-8-2017] and declaring that the respondent was unfit for appointment to the said post. The yardstick to be applied in cases where the appointment sought relates to a Law Enforcement Agency, ought to be much more stringent than those applied to a routine vacancy. One must be mindful of the fact that once appointed to such a post, a responsibility would be cast on the respondent of maintaining law and order in the society, enforcing the law, dealing with arms and ammunitions, apprehending suspected criminals and protecting the life and property of the public at large. Therefore, the standard of rectitude to be applied to any person seeking appointment in a Law Enforcement Agency*



must always be higher and more rigourous for the simple reason that possession of a higher moral conduct is one of the basic requirements for appointment to a post as sensitive as that in the police service.

19. *We are, therefore, of the opinion that mere acquittal of the respondent in the criminal case [Bhupendra Yadav v. State of M.P., 2017 SCC OnLine MP 2372] would not automatically entitle him to being declared fit for appointment to the subject post. The appellant State Government has judiciously exercised its discretion after taking note of all the relevant factors relating to the antecedents of the respondent. In such a case, even one criminal case faced by the respondent in which he was ultimately acquitted, apparently on the basis of being extended benefit of doubt, can make him unsuitable for appointment to the post of a Constable. The said decision taken by the appellant State Government is not tainted by any mala fides or arbitrariness for the High Court to have interfered therewith. As a result, the judgment dated 17-11-2017 [Bhupendra Yadav v. State of M.P., 2017 SCC OnLine MP 2372], passed by the learned Single Judge is upheld while quashing and setting aside the impugned judgment dated 24-1-2018 [Bhupendra*



Yadav v. State of M.P., 2018 SCC OnLine MP 1919]
, passed by the Division Bench of the High Court.
The appeal is allowed. Parties are left to bear their
own costs."

10. We have gone through the judgment dated 08.12.2020 in Criminal Case No.44/2017 wherein the petitioner herein is acquitted of the offences punishable under Sections 177, 403 and 408 of IPC. A perusal of the judgment would indicate that the petitioner's acquittal is not an honourable acquittal, but the acquittal is on the ground that the witnesses turned hostile. Learned Judge at paragraph 11 of the acquittal Judgment has observed that the prosecution treated one of the witnesses as hostile witness and subjected to cross-examination. It is further observed that the said witness remains hostile with regard to involvement of the accused in the alleged misappropriation and criminal breach of trust committed by the accused i.e., petitioner.



11. For the reasons recorded above, we do not find any error in the impugned endorsement as well as the impugned order passed by the Tribunal. It is within the State's power to go into the antecedents and come to the conclusion as to whether the petitioner is fit for State Services.

12. With the above, writ petition stands rejected.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

NC
CT:bms
List No.: 1 Sl No.: 5