

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2792 of 2018**

Sunil Kumar Yadav S/o Shri Balveer Yadav Aged About 28 Years R/o Village - Dhanpipri, Post Salon - B, Tahsil Bhandar, District Datia (M.P.) Pin 475336

---- Petitioner**Versus**

1. Union Of India, Through Its Secretary Ministry Of Home Affairs, South Block New Delhi.
2. Director General (D.G.), Central Industrial Security Force (CISF) Headquarter , Block-13 , C.G.O. Complex, Lodhi Road New Delhi, PIN- 110003
3. Inspector General (I.G.) Central Industrial Security Force (CISF) Block- 13, C.G.O. Complex, Lodhi Road, New Delhi PIN- 110003
4. Deputy Inspector General (D.I.G.) Central Industrial Security Force (CISF) RTC Bhilai, Post Utai, Durg District Durg Chhattisgarh.
5. Senior Commandant, Office Of Central Industrial Security Force (CISF) RTC Bhilai, Post- Utai, Durg District Durg Chhattisgarh.
6. Amit Kumar S/o Shri Kunwar Pal Singh, Roll No.- 3005016483, Village - Pachokra, Khanpur, Post Kuchawali, Tahsil Kanth District Moradabad (U.P.) PIN - 244001

----Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For Respondents No.1 to 5	:	Mr. Rajkumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/04/2018**

1. The grievance of the petitioner in the instant case is that the petitioner was found selected for the post of Constable in the Central Industrial Security Force (CISF). The order of appointment was issued on 26.03.2017. Though an order of appointment was passed in favour of the petitioner and he had also pursuant to which given his joining at the Regional Training Centre (RTC), Bhilai, District Durg and where he continued to remain under training from 05.05.2017 to 15.07.2017, when abruptly the services of the petitioner was kept in

hold and it was informed to the petitioner that his matter is pending consideration before the State Screening Committee. It is submitted by the petitioner that the petitioner in the year 2006 was involved in a criminal case for the offence punishable under Sections 294, 341, 323 & 506 of Indian Penal Code and the matter was pending consideration before the Judicial Magistrate First Class, Bhandar, District Datia, however ultimately the petitioner stood acquitted from the charges on the offence being compounded with the complainant. According to the petitioner since there is an order of acquittal in favour of the petitioner, there does not appear to be any impediment on the part of the respondents in permitting the petitioner to continue with the employment as per the order of appointment issued in his favour as a Constable with the CISF. He further prays that an appropriate direction be given to the respondents to consider the case of the petitioner and a direction to the State Screening Committee to take an appropriate decision at the earliest.

2. The counsel for the Union of India however opposes the petition and submits that since the petitioner was involved in a criminal case and when this fact came to the notice of the authorities, they have for verification and investigation kept the order of appointment of the petitioner in hold.
3. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that no fruitful purpose would be served in keeping the petition pending and the matter could be disposed with a direction to the concerned authority to consider the case of the petitioner as regards his eligibility and his entitlement for employment in the light

of the decision of the Hon'ble Supreme Court in the case of "**Avtar Singh v. Union of India and Others**" reported in **(2016) 8 SCC 471**, wherein in paragraph No.31, the Hon'ble Supreme Court has held as under:

"31. Coming to the question whether an employee on probation can be discharged/refused appointment though he has been acquitted of the charge(s), if his case was not pending when form was filled, in such matters, employer is bound to consider grounds of acquittal and various other aspects, overall conduct of employee including the accusations which have been levelled. If on verification, the antecedents are otherwise also not found good, and in number of cases incumbent is involved then notwithstanding acquittals in a case/cases, it would be open to the employer to form opinion as to fitness on the basis of material on record. In case offence is petty in nature committed at young age, such as stealing a bread, shouting of slogans or is such which does not involve moral turpitude, cheating, misappropriation etc. or otherwise not a serious or heinous offence and accused has been acquitted in such a case when verification form is filled, employer may ignore lapse of suppression or submitting false information in appropriate cases on due consideration of various aspects."

4. Likewise, it is also relevant to take note of the conclusion part of the judgment in the case of "Avtar Singh" (supra), wherein the Hon'ble Supreme Court in paragraph No. 38.4.1 held as under:

"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.”

5. In the light of the aforesaid findings of the Hon'ble Supreme Court in the aforesaid judgment, this Court is of the opinion that let the respondent No.2 take a decision in the case of the petitioner at the earliest and the respondent No.2 would also ensure that while taking a decision they would keep in view the judgment of the Hon'ble Supreme Court in the case of “Avtar Singh” (supra) into consideration. Let this exercise be done within a period of 90 days from the date of presentation of the certified copy before the respondent No.2.
6. With the aforesaid observation, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge