

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Civil Writ Petition No. 19529 of 2015 (O&M)

Date of Decision: 11.07.2018

Ramesh Chand Meena

.....Petitioner

versus

Central Administrative Tribunal and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Sushil Bhardwaj, Advocate, for the petitioner.
Mr. Puneet Jindal, Sr. Advocate with
Mr. Lupil Gupta, Advocate, for the respondents.

KRISHNA MURARI, CHIEF JUSTICE (oral)

By means of this petition filed under Article 226 of the Constitution of India, the petitioner has challenged the impugned judgment and order dated 10.07.2015 passed by the Chandigarh Bench of the Central Administrative Tribunal rejecting his application made under section 19 of the Central Administrative Tribunal Act, 1985.

2. Undisputed facts are that in pursuance to a notice issued by the respondent-Railway Recruitment Board dated 16.06.2012 inviting applications for appointment of various categories of posts including that of the Technical Grade-II/Shell for which the petitioner herein was also an applicant, he alongwith other applicants was subjected to written test and on the basis of the result whereof his name was included in the provisional list of selected candidates. According to clause 7.6 of the Centralized

Employment Notice he was to be subjected further to final verification of educational and community certificates and verification of antecedents/character and thereafter could have been offered an appointment. Relevant clause 7.6 of the Centralized Employment Notice reads as under:-

“Appointment of selected candidates is subjected to their passing requisite medical fitness test to be conducted by the Railway Administration, final verification of educational and community certificates and verification of antecedents/character of the candidates.”

3. It appears that on verification of the antecedents and character of the petitioner, it was reported that he was involved in a criminal case under section 304 and 306 read with section 34 of the Indian Penal Code which was registered being FIR No.430 of 2006 wherein after investigation a charge-sheet was submitted which was pending. Keeping in view the fact that the offence against the petitioner involves moral turpitude, the competent authority cancelled his name from the provisional list of selected candidates. Aggrieved the petitioner approached the Central Administrative Tribunal by making an application under section 19 of the Act. The Tribunal vide the impugned order dismissed the claim of the petitioner and hence this writ petition.

4. It is undisputed that mere inclusion of the name of a candidate in the provisional select list does not give him a vested right for appointment. The terms and conditions of the notice contain a clear stipulation that the appointment shall be subject to verification of the antecedents/character of the candidates.

5. After inclusion of the name of the petitioner in the provisional list when his antecedents/character was sent for verification, it was reported that he was involved in a criminal case in which he was charge sheeted. On the basis of the same his name was removed from the provisional list of the selected candidates.

6. Learned counsel for the petitioner vehemently contends that since he was acquitted by the trial Court of the offence, the Tribunal committed an error of law in rejecting the application. It is vehemently contended that once the trial Court acquitted him from the charges, the same would mean as if no offence has ever been committed and hence the same cannot constitute a ground for removing his name from the panel of the provisional selected candidates.

7. We have considered the arguments advanced by learned counsel for the petitioner and perused the record.

8. It is no doubt correct that vide order dated 08.05.2015 passed by the Special Court, Rajasthan (Jaipur) cum Additional Sessions Judge, Jaipur City, the petitioner has been acquitted from the charge under section 306 of the Indian Penal Code but it is not a clean acquittal and he has been given the benefit of doubt. Furthermore, it is not material whether the petitioner was discharged or acquitted of the criminal offence. What is relevant is the conduct/character of the candidate to be appointed into service and not the actual result of trial involving his conduct and character. The consideration relevant to the case is of the antecedents of the candidate. Because of the antecedents recorded, in case the Appointing Authority finds it not desirable to appoint a person who has been involved in a criminal

offence, no exception can be taken to such a decision of the Appointing Authority on the ground that subsequently the said candidate was acquitted of the criminal offence. The view taken by us finds support from the decision of the Hon'ble Apex Court in ***Delhi Administration v. Sushil Kumar (1996) 11 SCC 605***.

9. In view of the law laid down by the Hon'ble Apex Court squarely applicable to the facts of the case in hand, there appears to be no infirmity in the view taken by the Central Administrative Tribunal while rejecting the claim of the petitioner.

10. For the aforesaid facts and discussion, there is no scope for interference in the impugned order and the petition accordingly fails and stands dismissed in limini.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

11.07.2018
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√