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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1360/2013**

NARENDER SINGH Petitioner
Through: Mr.Sachin Chauhan, Advocate.

versus

UNION OF INDIA AND ORS Respondent
Through: Dr.Ashwani Bharadwaj, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **23.10.2019**

1. The Petitioner is aggrieved by an order dated 8th January, 2015 passed by the Commandant, Central Industrial Security Force (CISF) RTC (Bhilai) cancelling the Petitioner's appointment as Constable/Driver in the CISF made by an earlier offer of appointment dated 31st May, 2012.

2. The Petitioner applied for the post of Constable/Driver in the CISF for which an advertisement was issued in December, 2011. Admittedly, at the time of filling up of the application form on 20th February, 2012 the Petitioner did not indicate in the application form the fact that FIR No. 10 of 2007 had been registered at Police Station Surajgarh, Jhunjhunu, Rajasthan under Sections 341, 323, 324, 325, 326, 308 and 427 34 IPC; that in the said case as a result of a compromise reached between the parties, the offence under Section 325 was compounded; that as regards the remaining offences a judgment of acquittal was passed by the Sessions Court in Chiwara district

Jhunjhunu on 24th September, 2011 acquitting the Petitioner of the remaining offences.

3. The further admitted position is that after the Petitioner cleared the written exams and was called for the interview, in para 12 of the attestation form submitted by him at that stage in answer to the questions whether he had been arrested, prosecuted, kept under detention or bound down, he answered 'yes'. The case of the Petitioner with all the relevant documents was referred to the Standing Screening Committee (SSC) on 7th July, 2012.

4. At this stage, it must be noticed that the Government of India in the Ministry of Home Affairs (MHA) has formulated the policy guidelines dated 1st February, 2012 to consider cases of candidates against whom criminal cases were registered prior to their applying for various posts in Central Armed Police Forces (CAPFs) including the CISF.

5. According to the Respondents, the offences for which the FIR was registered against the Petitioner stood covered under Annexure A of the guidelines, i.e. the category of offences 'generally not considered suitable for appointment in CAPFs'. The Standing Screening Committee after noticing the above facts held the Petitioner not to be suitable for appointment to the CISF. This led to the impugned letter dated 8th January, 2013 issued by the Commandant cancelling the Petitioner's appointment as Constable/Driver in the CISF.

6. This Court has heard the submissions of the learned counsel for the

parties.

7. The Court notices that the applicable guidelines indicate that where a candidate omits to mention his involvement in a criminal case at the stage of filling up the application form but does so subsequently at the stage of medical examination or in the attestation/verification form, his candidature would not be cancelled 'on this ground alone'. Therefore, merely because the Petitioner failed to mention in the application submitted on 20th February, 2012 about his involvement in the aforementioned criminal case, it would not come in the way of his candidature since admittedly at the stage of submitting the attestation form he answered 'yes' in response to the question whether he had been arrested, involved in the criminal case, etc.

8. The guidelines then proceed to state the criteria under which a candidate 'will not be considered for recruitment'. Here para III (a) states that if the involvement/arrest is concerned with the offences mentioned in Annexure A to the guidelines, it would disqualify the candidate. Annexure A sets out a whole set of offences which include the aforementioned offences for which an FIR was registered against the Petitioner. Para V of the guidelines Clause is a further proviso to para III. It states that candidates against whom a charge sheet in a criminal case has been filed and the charges fall in the category of serious offences 'though later on acquitted by extending benefit of doubt and acquitted for reasons that the witnesses have turned hostile' due to fear of reprisal, such candidate 'will generally not be considered suitable for appointment in the CAPF'.

9. In the present case, there has been a compounding of the offence under Section 325 as a result of the settlement reached between the parties. An acquittal in respect of the remaining offences has been recorded as a result of the witnesses turning hostile. It, therefore, appears to be covered by para V of the guidelines.

10. Learned counsel placed reliance on the decisions dated 13th July, 2012 in Writ Petition (Civil) 4051/2012 (*Commissioner of Police v. Anil Kumar*), decision dated 15th July, 2016 in Writ Petition (Civil) 11979/2015 (*Manoj v. Union of India*) and decision dated 22nd March, 2017 in Writ Petition (Civil) 6061/2014 (*Deep Singh v. GNCTD*) to urge that the fact of acquittal for all the offences and the compounding of the offence under Section 325 IPC would not bar the Petitioner from being considered for appointment. In other words, according to him, an objective assessment has to be made by the Screening Committee in light of the guidelines and the Petitioner's acquittal has to be viewed not being on technical grounds but on merits.

11. The Court is unable to agree to the above submissions. In the first place, the Court finds that the decisions cited do not actually discuss the guidelines which have been applied by the Standing Screening Committee in this case to declare the Petitioner as not suitable to be continued in service. In particular, the judgments do not discuss the criteria for disqualification, one of which is acquittal on account of witnesses turning hostile.

12. In the instant case, it is apparent that the criminal case was brought to a closure by two steps. In the first step, a compromise was reached between

the parties as a result of which the offence under Section 325 IPC was compounded. Another part of the promise appears to be the complainants agreeing to turn hostile during trial of the remaining offences. Thus, it cannot be said that the acquittal was acquittal on merits. Therefore, para V of the guidelines would apply. Viewed thus, the decision of the Standing Screening Committee, as a result of which the impugned order dated 8th January, 2013 came to be issued, cannot be faulted. The Court is not persuaded that the Petitioner has made out a case for interference.

13. The petition is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

OCTOBER 23, 2019

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