

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10840 of 2019

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Sudhir Kumar, Son of Dinesh Kumar, R/o Village-Sonauat, P.O.-Goga,
Sonauat, P.S. Muffasil, District-Gaya, Bihar

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs,
Government of India, New Delhi
2. The Inspector General, Central Industrial Security Force, NISA, Hyderabad
3. The DIG (Training) Central Industrial Security Force, Head Quarters, New
Delhi
4. The Deputy Inspector General, Central Industrial Security Force RTC, Deoli
5. The AIG/Rectt CISF Headquarters, New Delhi
6. Commandant, CISF RTC, Deoli

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shama Sinha, Adv
For the Respondent/s	:	Mr. S.D.Sanjay (Add. S.G)
		Mrs. Punam Kumari Sinha, CGC
		Mrs. Priya Gupta, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date : 28-02-2020

The petitioner is son of one Dinesh Yadav. Full brother of Dinesh Yadav had lodged an FIR on 01.08.2014 giving rise to Gaya Muffasil P.S. Case No. 370 of 2014 with the allegation that he, with the help of his labourer, was making ridge in his agricultural land when the petitioner, petitioner's father, petitioner's mother and petitioner's sister came variously armed. The petitioner was carrying a pistol, petitioner's mother and his sister were carrying *lathis* whereas petitioner's father was carrying a *khanti* (Iron rod sharpened at one end). It was alleged against the petitioner in the FIR that at the point of pistol he had snatched a



chain. There is allegation against the petitioner's father of having made assault on one Santosh Yadav with *khanti* and petitioner's mother and sister on the informant with *lathis* causing injuries. No allegation in the FIR was there against the petitioner of having caused any physical assault leading to any physical injury. Family feud is manifestly the reason behind lodging of the FIR, which can be easily culled out on reading of the FIR itself.

2. Be that as it may, the criminal case was registered, levelling commission of the offence punishable under Sections 341, 323, 324, 307, 504 379/34 of the Indian Penal Code. A charge-sheet was submitted against the persons named in the FIR including the petitioner. Charge was framed against them for commission of offence punishable under Sections 307, 323/34, 341/34 and 324 of the Indian Penal Code. They were put to trial. They were finally acquitted by learned Sessions Judge, Gaya vide judgment and order dated 20.06.2017 rendered in Sessions Trial No. 181 of 2017. Paragraph 10 of the judgment of the trial court is being reproduced hereinbelow :-

“10. In this way, none of the witnesses has supported the content of written report of the informant and there is inconsistency in the evidence of prosecution witnesses. Even the informant has not stated that accused persons assaulted him and his son rather he has stated that he and his son sustained injury by brick (Dhela-Dheli). From the above discussions, I find that prosecution



has miserably failed to prove charge against the accused persons.

In the result, the accused persons are held not guilty and they are acquitted from all charges and they are also discharged from the liability of their respective bailbond.”

3. In the meanwhile, the petitioner had participated in a process of selection for the post of Constable (GD) in Central Armed Police Forces (CAPFs) organized by the Staff Selection Commission. After having undergone the process of selection, he was offered appointment by the Commandant, CISF Unit, BSL, Bokaro vide letter dated 22.03.2017. He was asked to join the post on 01.05.2017 and attend basic training scheduled to commence with effect from 08.05.2017. He complied with the said letter dated 22.03.2017. At no point of time, during the process of selection or subsequent thereto, the petitioner ever concealed about his implication in the criminal case.

4. It appears that subsequently the petitioner's selection/appointment as Constable was subjected to scrutiny, along with other candidates for adjudging suitability for his appointment in CISF, in view of his criminal history. The petitioner has been communicated a letter dated 18.03.2019, issued by the Commandant, CISF, RTC, Deoli to the effect that he has been found unsuitable for appointment in CISF, consequent upon examination of his criminal history, by 19th Screening



Committee assembled at the office of the CISF Headquarters, New Delhi on 31.12.2018.

5. Petitioner had earlier approached this Court by filing a writ application giving rise to CWJC No. 10220 of 2018, whereby the petitioner had sought for a direction to the respondents for taking appropriate decision on his case which was pending for scrutiny before the authorities. The writ application was disposed of on 19.02.2019 by this Court permitting the petitioner to make a fresh representation before the competent authority i.e. I.G., CISF Headquarters dealing with his grievances, to be disposed of within a period of eight weeks. The Screening Committee has taken a decision, which has been communicated through communication dated 18.03.2019, as has been noticed above. A reasoned order has been passed by the Inspector General (Personnel), CISF Headquarters, New Delhi on 26.04.2019 giving the reasons why the petitioner has been found not suitable for appointment in CISF. The petitioner has put to challenge the said communicated dated 18.03.2019 in the present writ application and has sought for amendment in the writ application to challenge the reasoned order dated 26.04.2019 by way of I.A. No. 01 of 2019.

6. Considering the facts and circumstances, as noted above, I.A. No. 01 of 2019 is allowed. The relief, which the petitioner was originally seeking, stands amended accordingly. The averments made in



I.A. No. 01 of 2019 shall be treated to be the part of pleadings of the main writ application.

7. Before I proceed to take note of the uncontroverted pleadings on record and rival contentions made on behalf of the petitioner and the respondents, I consider it apt, at this juncture, to take note of the policy Guidelines issued by the Ministry of Home Affairs (Police-II Division), Government of India dated 01.02.2012. For considering cases of candidates 'for appointment in CAPFs-pendency of criminal cases against candidates- the effect of' apparently, in the light of certain directions issued by the Delhi High Court. Clause 2(V) of the Guidelines, being of utmost significance for the purpose of present adjudication, is being reproduced hereinbelow :-

"V. Notwithstanding the provisions of 3(III) above, such candidates against whom chargesheet in a criminal case has been filed in the court and the charges fall in the category of serious offences or moral turpitude, though later on acquitted by extending benefit of doubt or acquitted for the reasons that the witness have turned hostile due to fear of reprisal by the accused person(s), he/ she will generally not be considered suitable for appointment in the CAPF. The details of crimes which are serious offences or involve moral turpitude are at Annexure 'A'. However, cases in which the criminal court, while acquitting, has categorically mentioned that the criminal case would not be a bar on appointment in Government Services, the candidate shall be



considered for appointment in the concerned CAPF.”

8. The Guidelines have been brought on record by way of Annexure-R/5 to the counter affidavit filed on behalf of the Union of India. Annexure-A of the Guidelines incorporates following provisions of Indian Penal Code, which have been termed as serious offence/offences involving moral turpitude :-

*“1. Indian Penal Code Chapter-5(A)
Criminal Conspiracy- To commit heinous offences
Section-120B*

*2. Indian Penal Code Chapter-6
Offences against the State-
Sections 121 to 130*

*3. Indian Penal Code Chapter-7
Offences relating to the Army, Navy and Air
Force-
Sections- 131 to 136*

*4. Indian Penal Code Chapter-8
Offence against the Public Tranquility
Sections-153-A & B*

*5. Indian Penal Code Chapter-11
False Evidence and Offences against Public
Justice-
Sections-193 to 216-A*

*6. Indian Penal Code Chapter-12
Offences relating to Coin and Government
Stamps-
Sections-231 to 263-A*



*7. Indian Penal Code Chapter-15
Offences relating to Religion-
Sections-295 to 297*

*8. Indian Penal Code Chapter-16
Offences Affecting the Human Body
Sections-302 to 304, 304-B, 305, 306, 307, 308,
311, 312, 313, 314, 315, 316, 317, 325, 326, 327,
328, 329, 330, 331, 332, 333, 335, 347, 348, 354,
363 to 373, 376 to 376-A, 376-B, 376-C, 376-D,
377*

*9. Indian Penal Code Chapter-17
Offences against Property-
Sections-379 to 462*

*10. Indian Penal Code Chapter-18
Offences relating to Documents and to Property
Marks
Sections-465 to 489*

*11. Indian Penal Code Chapter-20
Offences relating to Marriage and Dowry
Prohibition Act
Section-498-A
In cases relating to marriage i.e. Section 498-
A/406 IPC and Dowry Prohibition Act. The
candidate may be debarred if he is main accused
and not collateral accused such as Devar, Jeth
etc. If the offence of 304B etc. is committed with
498-A he may be debarred.”(underlined for
emphasis)*

9. Let it be noted that the petitioner, his father, his mother and his sister were put on trial for the charges punishable under Sections 307, 323/34, 341/34 and 324 of the Indian Penal Code. It is important to note that they were not charged of the offence punishable under Section 379



of the IPC nor under the provisions of the Arms Act. Offences punishable under Sections 323, 324 or 341 of the IPC have not been considered to be serious offences or offences involving moral turpitude in the Guidelines, as can be easily culled out from Annexure-A thereof. It is in this background this Court has to examine in the present case as to whether the reason recorded in the impugned order for holding the petitioner unsuitable to hold the post of Constable (GD) in CISF is justifiable or not.

10. Mrs. Shama Sinha, learned counsel appearing on behalf of the petitioner, has submitted with reference to the judgment of the trial court in the criminal case that the petitioner was honorably acquitted, in the absence of any evidence in support of the charge having been adduced at the trial. She has submitted that had it been a case of acquittal by giving the petitioner benefit of doubt, the respondents would have been justified in questioning the petitioner's suitability or otherwise for the post. She has argued that, in the present case, the witnesses were examined and though some of the witnesses were declared hostile by the prosecution, there is no material to suggest that the same was because of any threat or coercion. She has placed reliance on Supreme Court's decision in case of *Joginder Singh vs. Union Territory of Chandigarh* reported in *(2015) 2 SCC 377* and has contended that in view of the petitioner's honorable acquittal, his mere implication in a criminal case



cannot debar him or disqualify him for the post of Constable for which he was successfully selected after qualifying the written test, medical test and the interview etc. conducted by the selecting authority.

11. Mr. S.D. Sanjay, learned Additional Solicitor General for India, appearing on behalf of the respondents, resisting the petitioner's case, has relied on Supreme Court's decisions in case of *Avtar Singh vs. Union of India and others* reported in (2016) 8 SCC 471 and *Commissioner of Police, New Delhi and another vs. Mehar Singh* reported in (2013) 7 SCC 685.

12. Considerable emphasis has been laid by him on the observations made by the Supreme Court in case of *Avtar Singh* (supra) with reference to paragraphs 36 and 38 thereof. Referring to the Supreme Court's decision in case of *Mehar Singh* (supra) he has submitted that it is evident from the judgment and order of acquittal that the parties had entered into a compromise and therefore, the acquittal is also because of the compromise reached between the informant and accused persons. He has submitted that the acquittal of the petitioner of the criminal charge cannot be described as an acquittal on merits, in the facts and circumstances of the case, and the acquittal cannot be said to be honorable acquittal.

13. I have given my anxious consideration to the rival submissions made on behalf of the parties in the background of the facts



and circumstances of the case. Whether involvement of a person in a criminal case, which finally culminates into his acquittal, would debar him or make him unsuitable to hold a post in Government service will essentially depend upon the facts and circumstances of each case. Keeping this in mind, I have narrated in the very beginning of the present judgment, the case of the prosecution as disclosed in the FIR itself. I have also mentioned above the offences punishable under various sections of the Indian Penal Code, of which petitioner was charged. It is reiterated that the petitioner was not charged of the offence punishable under Section 379 of the IPC, at the trial, though the same was mentioned in the FIR. The petitioner was thus not put on trial of the offence punishable under Section 379 of the IPC, which is one of the offences mentioned in Annexure-A of the guidelines and has been treated to be serious offence/ offence involving moral turpitude. There is no allegation against the petitioner of making any assault, in the FIR, which can be said to be treated as an act to attempt to murder for constituting offence punishable under Section 307 of the IPC.

14. From the judgment of acquittal, it appears that the informant did not deny the occurrence and asserted that he and his son had sustained injuries because of brick/ stone pelting and nothing was snatched from anyone. He also deposed that there was some minor dispute between the brothers and there was no intention to kill. There is



mention of the fact in his deposition that he had compromised the case. This expression 'compromise', as recorded in the deposition of the informant, has been much emphasized by Mr. S.D. Sanjay, learned Additional Solicitor General, to contend that since the acquittal is because of compromise, the decision of the Screening Committee to declare the petitioner unsuitable, cannot be said to be unreasonable, arbitrary or perverse requiring this Court's interference in a proceeding under Article 226 of the Constitution of India.

15. In my opinion, based on close reading of the FIR, it is difficult for any prudent person to reach a conclusion that an offence under Section 307 of the IPC would be made out against the petitioner. Merely because the police recorded Section 307 of the IPC in the FIR or because the petitioner was put on trial with the charge of commission of offence under Section 307, he cannot be said to have been involved in commission of such offence because his name was mentioned in the FIR or subsequent records. The respondents being State under Article 12 of the Constitution of India, had a duty to examine as to what was the allegation against the petitioner originally in the FIR and whether such allegation constituted one of the offences listed under Annexure-A of the Guidelines or not.

16. Coming to the Supreme Court's decision in case of *Mehar Singh* (supra), it can be seen from paragraph 27 thereof that as per the



complaint, Mehar Singh and others armed with iron rod, chains, *lathies*, *danda* stones etc. had stopped a bus, rebuked the conductor of the bus as to how he dared to take the fare from one of their associates. Those who had intervened were beaten up. They had received injuries. The miscreants were said to have broken the side windowpanes of the bus by throwing stones. The assault on the conductor was found to be preplanned and premeditated. In the said case, since the acquittal was recorded as the main witness had turned hostile, the Supreme Court recorded that the acquittal could not be described as an acquittal on merits after full-fledged trial, taking note of the fact that there was no discussion on merits of the case, in the order of acquittal. The Supreme Court had found that Mehar Singh had not been exonerated after evaluation of the evidence. The Supreme Court in case of **Mehar Singh** (supra) held in paragraph 23 as follows :-

“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."
(Underlined for emphasis)

17. In paragraph 25, in case of **Mehar Singh** (supra) the Supreme Court, in no uncertain terms, held that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the charges levelled against the accused, it could be possibly said that the accused was honorably acquitted. In the present case, as is evident from the judgment and order of the trial court, that the witnesses were examined and as they did not support the case of the prosecution, they were declared hostile by the prosecution. It is relevant to point out at this stage that following is the part of the reasoned order dated 26.04.2019 :-

"05. AND WHEREAS, on receipt of documents from the petitioner, his case was re-examined by the Standing Screening Committee on 31.12.2018 as per MHA's policy dated 01.02.2012 and in the light of guidelines pronounced by the Apex Court in the case of



Avtar Singh vs. Union of India and Ors. The Committee has found that the petitioner indulged in serious offences under Section 307 of IPC. Session Judge, Gaya vide JO dated 20.06.2017 acquitted him on the basis of hostile witnesses. As per guidelines issued by MHA vide letter dated 01.02.2012 wherein at Para-2(v) it has been mentioned that “candidates against whom charge sheet in a criminal case has been filed in the court and the charges fall in the category of serious offences or moral turpitude, though later on acquitted by extending benefit of doubt or acquitted for the reasons that the witness have turned hostile due to fear of reprisal by the accused person(s), he/ she will generally not be considered suitable for appointment in CISF. Further, the Hon’ble Apex Court in the case of Avtar Singh has issued guidelines wherein at Para-30(3) it has been mentioned that “the employer shall take into consideration the Government orders/ instructions/ rule, applicable to the employee at the time of taking the decision”. Hence, the Standing Screening Committee has found him not suitable for appointment in CISF.”

18. It can be easily deciphered on reading of the aforesaid reason that the petitioner has been held not suitable for the post because he was acquitted as witnesses turned hostile. In my opinion, there is no element of ‘fear of reprisal by the petitioner’ on record which could have been the basis for the Screening Committee to have reached a conclusion that the acquittal of the petitioner of the charge of commission of offence under Section 307 of the IPC was not free from doubt/ suspicion. I reiterate again that no material on record of the present proceeding



indicates petitioner's involvement in commission of an offence punishable under Section 307 of the IPC. Mr. S.D. Sanjay has argued that it is the only experienced officer of the Screening Committee who can be able to judge whether an 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, relying on decision in case of **Mehar Singh** (supra). The Supreme Court's decision in case of **Mehar Singh** (supra) casts an obligation on the Screening Committee to consider the nature and extent of such person's involvement in the crime and his propensity of becoming a cause for worsening law and order situation rather than maintaining it. The Screening Committee has miserably failed to discharge the said obligation and has not at all gone into the 'nature and extent of the petitioner's involvement'. The nature of the petitioner's involvement could have been gathered from the materials which were there before the Screening Committee, First Information Report being one of the foundational materials. The Screening Committee appears to have acted mechanically, while rejecting the petitioner's case.

19. In **Avtar Singh** (supra), a Larger Bench of the Supreme Court had the occasion to deal with the question of suppression of an information or submission of false information, in the verification form as to the question of having been criminally prosecuted, arrested or as to



pendency of a criminal case, in the light of cleavage of opinions in various decisions of the Supreme Court. After having dealt with various case-laws and the statutory provisions the Supreme Court held that expression 'material information' presupposes that what is suppressed that 'matters' and not every technical or trivial matter. In paragraph 36 in case of **Avtar Singh** (supra), the Supreme Court held that what yardstick is to be applied has to depend upon nature of the post, higher post would involve more rigorous criteria for all services, and not only to 'uniform service'. The Court further observed that for lower posts, which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by the authorities concerned considering post, nature or duties/ services and power has to be exercised on due consideration of various aspects. In paragraph 37 of the said decision, the Supreme Court in case of **Avtar Singh** (supra) made significant observations of great importance which cast obligation on the authorities while dealing with the cases of youths. In the present case, the alleged conduct of the petitioner can not be said to be constituting an offence under Section 307 of the IPC. Family feud was the apparent reason.

20. In **Avtar Singh** (supra), the Supreme Court after having noticed various judicial pronouncements, summarized its conclusion as under :-

“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 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 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 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.”

21. It is true, as is manifest from the decision from paragraph 38.5 of the Supreme Court’s decision in case of **Avtar Singh** (supra) that even in a case where the employee makes its declaration truthfully of a concluded criminal case, the employer has still the right to consider the antecedents and cannot be compelled to appoint a candidate. The Supreme Court has, however, cast an obligation on the employer to consider all relevant facts available as to antecedents.

22. I must quote with agreement, observations made by a Division Bench of Delhi High Court rendered on 15.07.2016 in W.P. (C) No. 11979 of 2015 in case of Manoj vs. Union of India and others. Paragraphs 29 to 33 of which read thus :-

“29. That apart, as generically understood, offences involving moral turpitude can be classified with reference to the act being one which shocks the moral conscience of the society in general and this can be determined with reference to the motive of the offender i.e. whether the motive which led to the act was a base one or alternatively whether on account of



the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society.

30. Today, with plea bargaining being a well-recognized facet of the administration of criminal law and a part of criminal jurisprudence in India, we do perceive a large number of cases involving thousands and thousands throughout the country, appearing before the Summary Courts and paying small amounts of fine, more often than not, as a measure of plea bargaining. Foremost would be amongst them petty crimes committed mostly by the young and/ or the inexperienced. Some may even undergo a petty sentence of imprisonment of a week or ten days. We may also notice that Section 302 Cr.P.C. prescribes for taking note of compoundable offences at the instance of the complainant itself and there are cases where compounding can take place with the permission of the Court.

31. Life is too precious to be staked over petty incidents and the cruel result of conviction for petty offences being the end of the career, the future and the present, of young and inexperienced persons cannot blast their life and their dreams.

32. In a growing democracy, where the systems are failing and the weak and the downtrodden are hardly given the opportunity to sharpen their intellect thereby diminishing the ability of their consciousness to act as a mirror to their acts and actions, it is high time that the executive brings into place a policy where summary/ ordinary conviction should not be treated as a conviction for entry or retention in government service.



33. Till then, it would be the duty of the Court to interpret the law by harmonizing human sufferings and human wants, delinquencies and criminal tendencies; conscious of the fact that passengers on Spaceship Earth are the rich and the poor, the needy and the well-off, the hungry and the well-fed, the educated and the uneducated. The need of the hour is to understand that criminals are not born and are not irredeemable brutes. Crime may be a disease but not the criminal, who are a kind of psychic patients and to understand, that anti-social maladies are mostly the result of social imbalances. It must be remembered that on the one hand, social stresses, for various reasons, explosively mount in the real world's hard environs and the harsh remedy of heartless incarceration and ouster from society deepens the criminality. The swing of the pendulum to the humanist side requires respect for the worth of personhood and the right of every man and woman in its residual human essence."

23. The petitioner's date of birth, as mentioned in the e-Admit card, a copy of which has been brought on record by way of Annexure-2, is 05.04.1996. The FIR was registered on 01.08.2014. On the date of occurrence and registration of the FIR the petitioner's age was slightly above 18 years. He was implicated in a criminal case by his own uncle, apparently out of family feud. The prosecution has miserably failed to prove the charges levelled against him at the trial. The petitioner did not suppress any material about his involvement in a criminal case while seeking employment. Keeping in mind the petitioner's age on the alleged



date of occurrence, the nature of allegation against him coupled with finding of acquittal recorded by the trial court, in my considered opinion, holding the petitioner unsuitable for being appointed to the post of Constable in CISF, would be highly unjust and unreasonable. The facts in relation to criminal case lodged against the petitioner, which finally resulted into acquittal, in the facts and circumstances of the case, will not debar or disqualify him for the said post. My attention has been drawn to a Single Bench decision of this Court dated 31.07.2018, rendered in CWJC No. 13649 of 2017 (Azhar Ali vs. The Union of India and others) which also relates to the same selection process and holding the petitioner of that case unsuitable for the post of Constable (GD) in CISF. This Court after having quashed the impugned order in that case has directed the respondents to restore appointment of the petitioner of that case.

24. In view of the aforesaid discussions, in my opinion, the impugned decision of the respondents holding the petitioner unsuitable for his appointment as Constable (GD) CISF cannot be sustained keeping in mind the nature of allegation against him. In usual course, I would have remanded the matter back for the respondents to reconsider the petitioner's case in the light of the observations made hereinabove, but in peculiar facts and circumstances of the present case, since I have gone into the nature of allegation against the petitioner, the background



of registration of the criminal case and his age (18 years 4 months approx.) on the date of occurrence, I have considered it appropriate to direct respondents no. 2 to 6 to ensure that the petitioner is reinstated in service forthwith. The impugned communicated dated 18.03.2019 (Annexure-10) and reasoned order dated 26.04.2019, passed by the Inspector General (Personnel), CISF, New Delhi are hereby quashed.

25. This application is accordingly allowed.

26. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.03.2020
Transmission Date	NA

