

\$~VC-A-14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 8th December, 2020

+ **W.P. (C) 2753/2020**

DEEPAK SINGH JATAV **Petitioner**
Through: Ms. Pratibha Yadav, Advocate

versus

UNION OF INDIA & ORS **Respondents**
Through: Mr. Jagjeet Singh, Advocate for
respondent Railways.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE RAJIV SAHAI ENDLAW

1. The petitioner, a candidate for recruitment to the post of Constable (Executive) of Group 'F' in Railway Protection Force (RPF) and Railway Protection Special Force (RPSF), pursuant to Employment Notice No.01/2018, has filed this petition impugning the cancellation dated 20th December, 2019 of his candidature and seeking mandamus, directing the respondents Indian Railways to consider the petitioner fit for the post of Constable (Executive) in RPF/RPSF.

2. The reason given in the impugned Communication dated 20th December, 2019 for cancellation of the candidature of the

petitioner is, (i) that the petitioner was empanelled for the subject post and called for medical examination; (ii) that after completion of medical examination, an Attestation Form filled by the petitioner was sent to District Magistrate, Shivpuri, Madhya Pradesh, for verification of “Character and Antecedents”; (iii) that on receipt of Police Verification Report from the District Magistrate Shivpuri, Madhya Pradesh, it was found that a criminal case under Sections 323/34, 294 and 504 of the Indian Penal Code (IPC) was registered against the petitioner and the petitioner, vide order dated 3rd May, 2019 of the Judicial Magistrate Shivpuri, had been acquitted under Sections 323/34 of IPC, on compromise and with respect to the charge against petitioner of offence under Section 294 IPC, it was observed that the petitioner was acquitted thereof for want of suitable evidence; (iv) that the petitioner, in the Attestation Form filled up by him, though was required to furnish the said particulars, but did not; (v) that though the petitioner had been acquitted from the above criminal case which involved moral turpitude/offence of heinous/serious nature but it was not a case of clear-cut acquittal, being on compromise; (vi) that thus it was not desirable to appoint the petitioner as a Constable in the disciplined force.

3. The petition dated 24th February, 2020 came up first before this court on 13th March, 2020, when we enquired from the counsel for the respondents Indian Railways, whether the respondents Indian Railways, in accordance with the dicta of the Supreme

Court in *Commissioner of Police, New Delhi v. Mehar Singh* (2013) 7 SCC 685, had formed a Screening Committee to consider such cases.

4. The petition, thereafter was being adjourned from time to time on account of prevalent pandemic and after 13th March, 2020 has been listed for the first time today, not because of any application of the petitioner but in the normal course.

5. The counsel for the respondents Indian Railways informs that no Screening Committee has been constituted by the RPSF. He has however otherwise drawn attention to the Form filled up by the petitioner and filed as Annexure P-4 to the petition and which expressly contained the following questions and answers given by the petitioner thereto:

“15(i).	(a)	<i>Have you ever been dept under detention?</i>	<i>No</i>
	(b)	<i>Have you ever been arrested?</i>	<i>No</i>
	(c)	<i>Have you ever been prosecuted? (i.e. has a charge sheet in a criminal case been filed against you in any court of law)</i>	<i>No</i>
	(d)	<i>Is any criminal case pending against you in any court of law at the time or filling up this Attestation Form?</i>	<i>No</i>

	(d) (e)	<i>Have you ever been convicted by a Court of Law for any Office?(sic)</i>	No
	(f)	<i>Whether discharged/expelled/withdrawn from any training/institution under the Government or otherwise?</i>	No
	(g)	<i>Have you ever been rusticated by any University or any other educational authority/institution?</i>	No
	(h)	<i>Have you ever been debarred/disqualified by any Public Service Commission/ Staff Selection Commission for any of its examination/ selection?</i>	No
(ii)		<i>If the answer to any of the above mentioned question is 'Yes' give full particulars of the case/ arrest/ detention/ fine/ conviction/ sentence/ punishment etc and/or the nature of the case pending in the Court/ University/ Educational Authority etc. at the time of filling up this attestation form:</i>	Yes
		<i>Particular</i>	<i>Copy included"</i>

6. The counsel for the respondents Indian Railways has also drawn our attention to the declaration made by the petitioner at the bottom of the said form to the following effect:

“DECLARATION

I certify that the foregoing information is correct and complete to the best of my knowledge and belief.

I am fully aware that by providing false information or suppressing material information while filling this form, the authorities have full right to terminate my appointment letter and I am also liable for appropriate criminal/civil/legal action as a consequence.

I am not aware of any circumstances which might impair my fitness for employment under Government.”

7. The counsel for the respondents Indian Railways has next drawn attention to the judgment of the court of the Judicial Magistrate-First Class, Shivpuri filed by the petitioner as Annexure P-3 to the petition and which discloses that, (i) it was the complaint against the petitioner that he alongwith two others had hurled filthy abuses in the name of the mother and sister of the complainant when the complainant objected to the petitioner and the said others measuring the land of the complainant; (ii) that on the complainant objecting to the abuses hurled, the petitioner along with the said others gave beatings to the complainant, with kicks, fists and a lathi and as a result of which the complainant suffered injuries; (iii) that the petitioner along with the said others also gave a threat of death to the complainant; (iv) that on the complainant registering a report with the police, though the medical examination of the complainant was got carried out, but since the police did not register any FIR,

complaint case was filed and on perusal of the statements of the complainant, case registered against the petitioner and others under Section 294 and 323/34 of the IPC; (v) that a compromise was arrived at between the complainant and the petitioner and other accused and the petitioner and other accused, in terms of the compromise, acquitted from the offence under Section 323/34 IPC but the offence of Section 294 was non-compoundable and the offence under Section 294 IPC was not found proved owing to lack of evidence in view of the compromise.

8. The counsel for the respondents Indian Railways also states that the petitioner appears to have compromised with the complainant aforesaid, after applying for the job in the RPF/RPSF.

9. We have enquired from the counsel for the petitioner that since the matter pertains to recruitment, which with the passage of time would have been concluded, leaving no vacancy for the petitioner, why did the petitioner allow the matter to languish and not apply for urgent hearing or have the petition listed for virtual hearing.

10. The counsel for the petitioner states that the petitioner did not contact her.

11. All that we can say is that the said conduct of the petitioner shows the lackadaisical attitude of the petitioner and which also disqualifies the petitioner from recruitment in a disciplined force like RPF/RPSF.

12. We have next enquired from the counsel for the petitioner, why the petitioner did not disclose the facts of the criminal case in the attestation form.

13. The counsel for petitioner has drawn our attention to question 15(ii) in the Attestation Form as above and whereagainst it is written “Yes” and “copy included” and states that the same shows that the petitioner had no intention to conceal the factum of the criminal case against the petitioner. However, on enquiry whether the petitioner along with the application form include the judgment dated 3rd May, 2019 of the Judicial Magistrate-First Class, Shivpuri, the answer of the counsel for the petitioner is in the negative.

14. The same belies the argument, of the petitioner having acted bona fide and having had no intention to conceal the facts of the criminal proceedings filed against him. Moreover, the particulars in response to the aforesaid question were to be given only when answer to any of the earlier questions was in ‘yes’ and which was not so.

15. We are otherwise satisfied with the action of the respondents of rejecting the candidature of the petitioner for furnishing false information and for suppressing material facts. It may be mentioned that at the end of question/column 15 aforesaid in the Attestation Form also, attention of the candidates was drawn to the warning at the top of the form as under:

“WARNING”

1. *The furnishing of false information of suppression of any factual information in the Attestation Form would be disqualification and is likely to render the candidate unfit for employment under the Government.*
 2. *If detained, arrested prosecuted, bound down, fines convicted, debarred, acquitted etc. subsequent to the completion and submission of this form, the details should be communicated immediately to the authorities to whom the Attestation Form has been sent early, failing which it will be deemed to be a suppression of factual information.*
 3. *If, the fact that false information has been furnished or that there has been suppression of any factual information in the Attestation Form comes to notice at any time during the service of a person his services would be liable to be terminated.”*
16. The petitioner clearly acted in violation of the rules of employment and does not deserve any sympathy.
17. Dismissed.

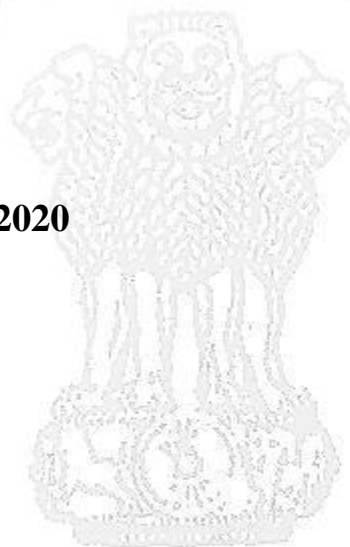
18. The respondents Indian Railways may however consider the feasibility of setting up of a Screening Committee, as provided in *Mehar Singh* supra.

19. The petition is disposed of.

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

DECEMBER 08, 2020
pkb



नित्यमेव जयते