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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 02.08.2023

+ **W.P.(C) 10674/2016**

GHANSHYAM YADAV

..... Petitioner

versus

STAFF SELECTION COMMISSION AND ANR Respondents

Advocates who appeared in this case:

For the Petitioners: Ms. Jasvinder Kaur, Advocate (through VC)

For the Respondent: Ms. Shiva Lakshmi, CGSC with Ms. Divyanshi Anand, Advocate with Mr. Zishan Hashim, Assistant, SI Prahlad and SI Amit Kumar, CISF

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks a direction to the respondents to accept the joining /reporting of the petitioner on duty in accordance with letter dated 23.08.2016.

2. Petitioner had sought employment as ASI in Central Industrial Security Force and appeared in Combined Examination conducted by Staff Selection Commission held in year 2015. Petitioner passed



through various recruitment examinations and was issued a provisional offer of appointment by letter dated 23.08.2016. The provisional appointment letter dated 23.08.2016 required the petitioner to appear before Deputy Inspector General/Principal CISF /RTC, Arakkonam, Tamil Nadu on 15.10.2016 for verification and to attend the basic training course for a period of 51 weeks.

3. Petitioner was required to also fill up a Questionnaire-cum-undertaking Form as per the prescribed format. Petitioner filled up the form and in the said form, in answer to a question – ‘Was any FIR ever lodged against you in the past?’, he furnished details of an FIR that was pending against him. Petitioner also disclosed in the said form that chargesheet had been filed and matter was pending.

4. The provisional appointment letter dated 23.08.2016 in paragraph 8 specified that in case answer to any of the columns is ‘Yes’ then his provisional offer of appointment shall stand withdrawn. The column referred to in paragraph 8 pertained to issue of conviction or pendency of any court case including an FIR.

5. Subsequent to the petitioner furnishing the said information, the competent authority issued an order dated 19.05.2017 declaring the petitioner unsuitable for appointment in CISF.

6. The said order was challenged by way of amendment to the



subject petition.

7. Learned counsel for the petitioner submits that petitioner has been acquitted in the said case and consequently respondent could not have declared the petitioner as unsuitable for appointment in the CISF.

8. Per contra, learned counsel for the respondent refers to the “Policy Guidelines for considering the cases of candidates for appointment in CAPFs – pendency of criminal cases against candidates – the effect of”. She contends that in terms of the aforesaid policy, in cases where an individual has been acquitted but if the acquittal is by extending benefit of doubt or for the reasons that witnesses have turned hostile, the competent authority has been empowered to still reject such candidate for appointment.

9. The order of acquittal relied on by learned counsel for the petitioner has been placed on record. The judgment though acquits the petitioner, it shows that petitioner was charged with offences under Sections 147/332/353/354/452/149 of the Indian Penal Code and Section 3 of Prevention of Damage to Public Property (PDPP) Act.

10. Policy Guidelines in paragraph 3 (v) stipulates as under:

“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 or 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 offence 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."

11. We note that some of the penal sections, for which the petitioner has been charged with, are included in Annexure 'A' specified in the above referred para and have been declared as concerning serious offences/moral turpitude. Furthermore, the judgment of acquittal, *inter-alia*, records that the eye-witnesses of the incident did not support the prosecution story and were declared completely hostile and, therefore, the accused were acquitted in view of lack of evidence.

12. The judgment does not give an honourable acquittal to the petitioner and the acquittal order has been passed granting benefit of doubt to the petitioner and also on the ground that the prosecution witnesses had turned hostile. The said cases are squarely covered by the Policy Guidelines dated 01.02.2012.

13. The Appointing Authority has consequently taken the same into



account and taken holistic view of the matter and consequently held that petitioner is unsuitable for appointment in the CISF.

14. Reliance may be had to the judgment of the Supreme Court in *State of Madhya Pradesh & Ors. Vs. Parvez Khan (2015) 2 SCC 591* wherein the Supreme Court referring to *Commr. Of Police vs. Mehar Singh (2013) 7 SCC 685* observed has held that police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force.

15. As we have noticed herein above that the case of the petitioner is covered by the Policy Guidelines and as such the respondents were within their right, the competent authority of the respondent was within its right to examine the case of the petitioner and declined to grant of appointment.

16. The reliance placed by learned counsel for the petitioner on the judgment of the Supreme Court in *Avtar Singh Vs. UOI & Ors. (2016) 8 SCC 471* is misplaced for the reasons in *Avtar Singh (Supra)*, the



Supreme Court was considering the question of concealment suppressing of relevant information and submission of false information in the verification form with regard to criminal prosecution.

17. In the instant case, there is no such allegation that petitioner has not made a complete disclosure.

18. The case of the respondents is that petitioner had been charge-sheeted in an offence of serious nature as described by the Policy Guidelines and though acquitted, the acquittal was not an honourable acquittal but was by granting a benefit of doubt to the petitioner and on the ground that the witnesses have turned hostile. It is in these circumstances that the respondent declined to grant appointment to the petitioner.

19. We find no fault in the action of the respondent in declining to grant appointment to the petitioner and declaring him unfit for appointment in the Central Industrial Security Force.

20. We find no merit in the petition. The petition is accordingly dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

AUGUST 2, 2023

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