

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.274 of 2020

In
Civil Writ Jurisdiction Case No.10840 of 2019

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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 D.I.G. (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 Head Quarters, New Delhi
 6. Commandant, CISF, RTC, Deoli

... .. Appellant/s

Versus

Sudhir Kumar Son of Dinesh Kumar, Resident of Village- Sonauat, P.O.- Gaya, Sonauat, P.s.- Muffasil, District- Gaya, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mrs. Punam Kumari Singh, C.G.C. Mr. Vaibhav Kumar Jha, Adv.
For the Respondent/s	:	Mrs. Shama Sinha, Adv. Mr. Sumit Sinha, Adv. Mr. Saurav Kumar Suman, Adv.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-06-2024

Appellants have assailed the order of the learned Single Judge dated 28.02.2020 passed in CWJC No. 10840 of 2019. Respondent Sudhir Kumar, son of Dinesh Kumar was a candidate for recruitment to the post of Constable (GD) in Central Armed Police Forces (CAPFs). The Staff Selection Commission invited application for selection and appointment



to the post of Constable (GD). Respondent Sudhir Kumar was a candidate for the selection and appointment to the post of Constable (GD). He was selected and offered appointment by the Commandant, CISF Unit, BSL, Bokaro vide communication dated 22.03.2017. He was asked to report for the post on 01.05.2017 followed by attending basic training which was scheduled to be commenced with effect from 08.05.2017. He had undergone training. Later on, appellants noticed that respondent Sudhir Kumar was involved in a criminal case. To that effect a communication has been made on 18.03.2019 by the Commandant, CISF, RTC, Deoli to the effect that he was found unsuitable for appointment in CISF in the light of 19th Screening Committee assembled at the office of the CISF Headquarters, New Delhi on 31.12.2018.

2. Respondent questioned the validity of impugned action of the appellants in CWJC No. 10220 of 2018 and it was disposed of on 19.02.2019 asking the petitioner to make fresh representation before the competent authority within a period of eight weeks. Thereafter, the appellants have taken fresh decision which was the subject matter of CWJC No. 10840 of 2019 decided on 28.02.2020 in favour of the respondent Sudhir Kumar. Perusal of the order of the learned Single Judge no



doubt there is a finding that it is a case of remand. However, the same has been side tracked and proceeded to allow the petition in favour of the respondent.

3. Core issue involved in the present lis is whether respondent Sudhir Kumar had suppressed any material relating to initiation of criminal proceedings or not. No doubt, as on the date of his appointment he was involved in criminal proceedings and it has been disclosed or not disclosed is a factual aspects which is required to be adjudicated by the competent authority. The second issue is if respondent Sudhir Kumar has been acquitted in the criminal case, in such an event what would be the impact in the event of providing employment by the appellants. On this issue the Hon'ble Supreme Court in the case of **Satish Chandra Yadav vs. Union of India and others** decided on 26.09.2022 reported in 2022 LiveLaw (SC) 798 in para 15 it is observed as under:-

*"15. The learned ASG also placed strong reliance on the decision of this Court in the case of **Union of India and Others v. Methu Meda**, (2022) 1 SCC 1, more particularly, in the following observations as under:*

"17. In view of the above, in the facts of the present case, as per paras 38.3, 38.4.3 and 38.5 of Avtar Singh case [Avtar Singh v. Union of India, (2016) 8 SCC 471: (2016) 2 SCC (L&S) 425], it is clear that the employer is having right to consider the suitability of the candidate as per government orders/instructions/rules at the time of taking the decision for induction of the candidate in employment. Acquittal on technical ground in respect of the offences of heinous/serious nature, which is not a clean acquittal, the



employer may have a right to consider all relevant facts available as to the antecedents, and may take appropriate decision as to the continuance of the employee. Even in case, truthful declaration regarding concluded trial has been made by the employee, still the employer has the right to consider antecedents and cannot be compelled to appoint the candidate."

4. In the light of earlier Hon'ble Supreme Court decision in the case of ***Union of India and Others v. Methu Meda*** and in the light of principle laid down by the Hon'ble Supreme Court from time to time including in the case of ***Avtar Singh*** it was the competent authority who has to take a decision whether candidate has suppressed material information or not. Even assuming that such a suppression is ignorable and what would be the impact of acquittal was required to be examined by the competent authority. Therefore, it is a case of remand and to that extent order of the learned Single Judge dated 28.02.2020 passed in CWJC No. 10840 of 2019 stands modified. It is also to be noted that impugned action of the appellants in CWJC No. 10840 of 2019 it is a bereft of reasons. It is necessary to reproduce the communication dated 18.03.2019 vide Annexure-10 and it reads as under:-

REGISTERED/AD

उप महानिरीक्षक का कार्यालय
केन्द्रीय औद्योगिक सुरक्षा बल
(गृह मंत्रालय)

आरटीसी, देवली-304804
जिला: टोंक (राज.)

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दिनांक. 18 March 2019

सेवा में,

Roll No. 3206007005
Sudhir Kumar
S/O Sh. Dinesh Kumar
Vill:- Sonauat,
PO:- Goga,
PS: Muffasil Gaya,
Distt. Gaya (Bihar)
Pin code:- 805131
Mob No. 8292190796

Subject: Decision of Competent Authority in respect of the candidates who were not allowed to join in CISF as they were involved in Criminal Case 19th Sanding Screening Committee Report (09th sitting): Regarding.

Reference offer of appointment letter No.E-31035/BSL(B)/ADM-III (DSR)/ Rectt./ (CT-15)/ OOA/ 2017/221 dated 22.03.2017.

02. Consequent upon having criminal background in the past, your case for appointment to the post of Constable/GD in CISF has been examined by the 19th Standing Screening Committee assembled at the Office of the CISF HQrs New Delhi on 31.12.2018 and decided that Roll No. 3206007005 Sudhir Kumar S/o Shri Dinesh Kumar "**Un-Suitable for appointment in CISF**".

03. Hence, provisional offer of appointment issued to you by the Commandant/Chairman CISF Recruitment Centre CISF Unit BSL Bokaro vide letter No.E-31035/ BSL(B)/ ADM-III (DSR)/ Rectt. / (CT-15)/ OOA/ 2017/ 221 dated 22.03.2017 is hereby **cancelled**.

कमाण्डेंट

केओसुब आरटीसी, देवली



Copy to:-

1.	The Inspector General/NS, CISF New Delhi	For kind information w.r.t. AIG/R&S CISF HQrs New Delhi Order No (1053) dated 01.03.2019
2.	AIG/R&S CISF HQrs New Delhi	-do-
3.	Dossier,	For necessary action

5. Reading of para-2 and 3 it is not supported by material information read with the reasoning in the light of Hon'ble Supreme Court decisions cited supra. Therefore, the concerned authority/competent authority is hereby directed to revisit to the case in hand and proceed to pass a detailed speaking order. In this regard, respondent Sudhir Kumar is hereby directed to furnish a detailed representation along with the judicial pronouncements within a period of two weeks from the date of receipt of this order. On receipt of respondent's representation along with the judicial pronouncements the competent authority-Appellant is hereby directed to pass a detailed speaking order in the light of Hon'ble Supreme Court observations made in the case of **Satish Chandra Yadav** read with the **Methu Meda** (cited supra) and communicate the decision to the respondent Sudhir Kumar within a period of six weeks from the date of receipt of the respondent's



representation. The competent authority is also hereby directed to take note of subsequent decision in the case of Ravindra Kumar vs. State of U.P. and Others passed in Civil Appeal No. 5902 of 2012 decided on 22.02.2024.

6. Accordingly, the present LPA allowed in part.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.07.2024
Transmission Date	N.A.

