



2024:DHC:9837-DB



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

Date of decision: 19.12.2024

+ **W.P.(C) 16794/2024 & CM APPL. 71073/2024**

RANJAN KUMAR

.....Petitioner

Through: **Mr. Sahil Mongia, Ms. Sanjana Samor and Mr. Yash Yadav, Advs.**

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: **Mr. Harsh Kumar, Adv. with Mr. A.M. Balasaheb, AC, CISF**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. The petitioner, being a candidate aspiring to join Central Industrial Security Force (CISF), applied for the post of Constable/General Duty (GD) pursuant to an advertisement issued by the respondent no.1 in July 2021.

2. Upon participating in all recruitment stages, including the Written Examination on 09.12.2021, the Physical Test on 23.05.2022, and the Medical Examination held on 27.09.2022, where he was declared fit, on 15.11.2022, the respondent no.2 issued an Offer of Appointment in favour of the petitioner for the post of Constable (GD) in CISF.



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3. The petitioner, on 28.12.2022, reported at the Regional Training Centre (RTC), Behror, Rajasthan for joining the training programme scheduled for the above-mentioned post.
4. During the training, the petitioner was directed by the respondent no.3 to disclose the pendency of criminal case(s) against him, if any, and the status of such criminal case(s).
5. Thereupon, the petitioner duly informed the respondent no.3 about the FIR No. 41/2021 that was registered against him on 05.05.2021 at Police Station Mali under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 which was pending adjudication at that point of time.
6. On the above disclosure, the respondent no.3 informed the petitioner that his case has been referred to the Standing Screening Committee, *vide* letter dated 18.04.2023.
7. Thereafter, *vide* the Impugned Order dated 30.11.2024, the respondents withdrew the petitioner's Offer of Appointment stating that he was "*unsuitable for employment in CISF*", despite the petitioner having informed the respondents that *vide* the Judgment dated 10.08.2023, he was acquitted in the aforementioned case as the prosecution had completely failed to prove the charges against him.
8. The petitioner has challenged the above decision in the present petition.
9. In support of the petition, the learned counsel for the petitioner submits that the respondents violated the principles of natural justice by referring the case of the petitioner to the Standing Screening Committee, without affording him an opportunity of being heard. He



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contends that the respondents ignored the settled principle of law that once the petitioner was acquitted in abovementioned FIR, it was not permissible for the respondents to issue the Impugned Letter, thereby, cancelling the candidature of the petitioner and therefore, the Impugned Letter has been passed in a mechanical and stereotypical manner.

10. He submits that the petitioner was granted an '*honourable acquittal*' by the learned Special Judge, Excise-II, Aurangabad, Bihar, and thus, the respondents were required to consider the said fact.

11. He submits that in the above circumstances, the Impugned Letter issued by respondent no.4 is liable to be quashed and the petitioner is entitled to be re-instated in Service along with notional seniority and other consequential benefits.

12. The learned counsel for the petitioner brought to our notice, the Policy Guidelines circulated *vide* MHA UO F. No. I.45020/6/2010-Pers. II dated 01.02.2012 issued by Police II, Division of the Ministry of Home Affairs (MHA) for considering cases of candidates for appointments in Central Armed Police Forces (CAPFs), which encompasses guidelines for recruitment if the aspiring candidate has pending criminal cases and the effect thereof.

13. *Per contra*, the learned counsel for the respondents submits that the petitioner was provisionally selected for appointment as Constable (GD), subject to the conditions given in the agreement form which he was required to fill at the time of reporting to the training centre. He submits that the petitioner cannot claim a violation of the principles of natural justice as the respondents while following the Guidelines set



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out by the MHA dated 01.02.2012, had sent the petitioner's case for consideration to the Standing Screening Committee as his case fell under the category of serious offences. Thereafter, he had been informed *vide* the letter dated 18.04.2023 that the decision/any information related to petitioner's candidature shall be conveyed to him.

14. In rebuttal, the learned counsel for the petitioner submits that the offence for which the petitioner was charge-sheeted does not fall within the ambit of '*moral turpitude*', as the acquittal of the petitioner was '*honourable*'. The learned counsel places reliance on the decision of this Court in ***Rajesh v. Directorate General Sashastra Seema Bal and Anr.***, 2024 SCC OnLine Del 7608

15. Having considered the rival submissions of the parties and perused the record, we find that on 28.12.2022, the petitioner had reported at the RTC, Behror, Rajasthan after an Offer of Appointment dated 15.11.2022 was issued in his favour by respondent no.2. The petitioner has truthfully disclosed the pendency of a criminal case against him, when during the training, he along with other candidates were directed to furnish the relevant information. However, the respondents referred the candidature of the petitioner to the Standing Screening Committee and he was informed that the decision/any information related to petitioner's candidature shall be communicated to him. It is undisputed that *vide* the Order dated 10.08.2023 by learned Special Judge, Excise II, Aurangabad, Bihar, the petitioner was acquitted in case bearing FIR No. 41/2021, for the offence punishable under Section 30(a) of the of Bihar Prohibition and Excise



Act, 2016.

16. Therefore, the petitioner had been acquitted of the charges framed against him prior to the issuance of the Impugned Letter dated 30.11.2024. In the order dated 10.08.2023, the learned Special Judge had recorded that the prosecution witnesses failed to prove the involvement of the petitioner in the incident and thereby, giving benefit of doubt to the petitioner, he was acquitted.

17. It would be apposite to refer to the decision in the case of **Rajesh** (supra) wherein this Court observed as under:-

“27. Applying the above principle to the facts of the present case, it has to be held that apart from the fact that the learned Sessions Judge found the investigation in the case to be lacking, the learned Sessions Judge had also discussed in detail the evidence that was led before the Court and found that even the star witnesses, that is the injured, who were the Police Officers, had failed to identify the accused, including the petitioner herein. In the facts of the present case, therefore, it has to be held that the acquittal of the petitioner was "honourable" and mere description of the same by the learned Sessions Judge has been one of extending the "benefit of doubt", which would not change the character of the acquittal for the purpose of denying him the opportunity of appointment to the post by the respondents.”

18. Keeping in view the facts of the present case as also the observations made by this Court in the aforementioned Judgement, we are inclined to accept the plea of the petitioner.

19. We, accordingly, set aside the Impugned Letter dated 30.11.2024. The respondents are directed to re-instate the petitioner to the post of Constable (GD), the post he was selected for, and allow him to complete his training with the next batch, if the training of the current batch has already been completed. We make it clear that the petitioner will be entitled to all consequential benefits and his seniority will be reckoned at par with his batchmates, however, shall



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not be entitled to salary for the period that he did not work.

20. The petition is allowed in the above terms. The pending application stands disposed of.

SHALINDER KAUR, J

NAVIN CHAWLA, J

DECEMBER 19, 2024

SU/FK/as

Click here to check corrigendum, if any