



LPA-1163-2022 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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LPA-1163-2022 (O&M)

Date of Decision: 29.04.2025

Canara Bank

..... Appellant

Versus

Mandeep Kaur and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Rakshit Gupta, Advocate
for the appellant.

Mr. Sunil Kumar Nehra, Advocate and
Mr. Rahil Mahajan, Advocate
for respondent No.1.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The present appeal preferred by the appellant-Bank assails the order dated 31.10.2022 passed by the learned Single Judge, whereby the writ petition filed by the petitioner (now herein respondent No.1) was allowed and the appellant-Bank was directed to issue appointment letter to the writ petitioner effective from the date the candidates lower to her in merit were selected for appointment and she was given all consequential benefits of pay fixation and entitlement of arrears of salary in the following terms:-

“In view of the above, the impugned order/action of the respondents is quashed and the writ petition is allowed. The respondents are directed to issue appointment letter to the petitioner, effective from the date the candidate immediately



lower to her in the merit of selection was appointed. The petitioner shall also be, accordingly, entitled to all service benefits including seniority and pay fixation on national basis. However, she will not be entitled to arrears of salary upto the date she actually joins. However, this denial of arrears shall not be taken as adverse to the petitioner for any other purpose whatsoever; or for the purpose of grant of any other benefits, including the pensionary benefits at the end of her tenure. The respondents are directed to issue the necessary appointment letter to the petitioner within a period of two months from the date of receipt of the certified copy of this order”.

2. Learned counsel appearing for the appellant-Bank submits that as per the conditions of service, a person who has been appointed with bank with the confirmation in the bank's services will be subject to satisfactory report regarding the character and antecedents from the Police Authorities and non-pendency of any criminal case/prosecution against him/her. His/her conviction but released on probation, compounding of offence will also be treated as adverse report. In case of adverse/unsatisfactory Police Report, conviction, pendency of any criminal case/prosecution, his/her services are liable to be terminated without notice. Therefore, he submits that as in the present case, writ petitioner-respondent No.1 was involved in a criminal case registered against her after applying for the post and she has been acquitted only on the basis of the criminal proceedings having been quashed under Section 482 of Cr.P.C. by this Court, she cannot be said to be having a good character for the purpose of confirmation and since, she cannot be confirmed in terms of the rules, there is no occasion to offer her appointment.



3. Learned counsel for the appellant-Bank also relies upon the Full Bench judgment of the Madhya Pradesh High Court in the case of ***'Ashutosh Pawar Vs. High Court of Madhya Pradesh and another, 2018(1) SCT 348'***.

4. Learned counsel for the writ petitioner/respondent No.1 supports the judgment and submits that the law relating to consideration for appointment has been well settled by the Larger Bench of the Hon'ble Supreme Court in the case of ***'Avtar Singh Vs. Union of India and others', 2016(3) SCT 672***, which has been again reiterated in the case of ***'Ravindra Kumar Vs. State of U.P. and others' 2024 INSC 131***. He submits that there has been no concealment on the part of the petitioner and the offences for which the case was registered do not fall within the ambit of moral turpitude. He also submits that the criminal case was registered and the petitioner was also roped in the said FIR merely because of the family dispute between brothers and sisters relating to the property. Since the petitioner had already applied for the post and there was likelihood of her being appointed, deliberately she was also made an accused. The High Court has examined the case at length and also found that there was a compromise arrived at between the family members which resulted into quashing of the criminal proceedings. The acquittal, therefore, cannot be said in any manner to be on the basis of lack of evidence and it is a clear acquittal. Her character cannot be said to be lower down merely because a criminal case registered during the pendency of the selection process. Therefore, reliance on the said judgment of Madhya Pradesh High Court (supra) is erroneous.



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5. We have carefully considered the submissions made by learned counsel for the parties and also perused the provisions of the Rules.

6. We find that in ***Avtar Singh's case (supra)***, Hon'ble Supreme Court has held that the judgment essentially was with reference to the verification of antecedents of a person who has applied for a Government job and aspects where there has been non-mentioning of a criminal case in the application form or concealment of conviction before applying. However, general observations as above have also been made by the Larger Bench.

7. In the case of ***Ravindra Kumar (supra)***, Hon'ble Supreme Court has further clarified which is as under:-

“17. In the above background, the questions that arise for consideration are:-

i. Was the State justified in cancelling the selection of the appellant, vide its order of 12.04.2005?

ii. To what relief, if any, is the appellant entitled to?

18. *As the facts reveal, admittedly on 12.02.2004, when the appellant applied for the post of Constable, there was no criminal case registered or pending. Five days after submitting the application, no doubt, he was embroiled in a criminal case which has since resulted in an acquittal by the trial court, vide order dated 13.09.2004, and no appeal was filed against the same. There is no dispute that under Clause 9 of the recruitment notification dated 20.01.2004, he was required to furnish an Affidavit in the format given by the Selection Committee. It is also specifically mentioned in Clause 9 that if it is found that facts have been concealed in the Affidavit the selection of the candidate is liable for cancellation. As will be seen from paras 4, 5, 6 and 7 of the affidavit, information (though somewhat*



repetitive) was sought. It did obligate the candidate to disclose any criminal case which was registered against him; any arrest made in the past, the details of the cases which were pending and, most importantly, the details of acquittals were also called for. It is also an undisputed fact that the appellant said 'No' to each of these queries. The appellant's explanation is that since he was acquitted, he bona fide believed that he was only obliged to give details of any pending proceedings.

28. The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgement of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio economic strata of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered.

29. Having discussed the legal position above, it is necessary to set out certain special features that obtain in the case at hand.

i. The appellant hails from the small village Bagapar, P.O. Kataura, Police Station Gauri Bazar, District Deoria, U.P.

ii. On the date of the application, there was no criminal case pending and there was no suppression in the application form.

*iii. The criminal case was registered when he was 21 years of age for the offences very similar to the one referred to in **Sandeep Kumar (supra)** and even in the criminal case he was acquitted.*

iv. No doubt, the multiple columns in the verification affidavit, questions were asked from him in different



permutations and combinations. He must have been in a deep dilemma as there was an imminent prospect of losing his employment.

v. Most importantly, we find from the verification documents fairly and candidly made available by the learned Additional Advocate General, that the verification report after noticing the criminal case and the subsequent acquittal stated that his character was good, that no complaints were found against him and that his general reputation was good.

vi. Not stopping there, the person who visited the spot even wished him a bright future in the report.

vii. The SHO, Gauri Bazar Police Station, who forwarded the report to the Superintendent of Police after reiterating the contents of the report observed that he was acquitted and no appeal was filed. Further, there was no other case pending and nor was any case registered against the candidate.

viii. The SHO certified the character of the candidate as excellent and that he was eligible to do Government Service under the State Government. He annexed the report of the Police Station as well as the report of the Gram Pradhan and the Court documents.

ix. The Superintendent of Police, in his letter to the Commandant, endorsed the report and reiterated that the character of the candidate was excellent.

*x. While examining whether the procedure adopted for enquiry by the authority was fair and reasonable, we find that the order of cancellation of 12.04.2005 does not even follow the mandate prescribed in Clause 4 of the Form of verification of character set out in the earlier part of this judgment. Like it was found in **Ram Kumar** (*supra*)*



instead of considering whether the appellant was suitable for appointment, the Appointing Authority has mechanically held his selection was irregular and illegal because the appellant had furnished an affidavit with incorrect facts. Hence, even applying the broad principles set out in para 93.7 of [Satish Chandra Yadav \(supra\)](#), we find that the order of cancellation dated 12.04.2005 is neither fair nor reasonable. Clause 9 of the recruitment notification has to be read in the context of the law laid down in the cases set out hereinabove”.

8. In addition to, in the case of ***‘The State of Madhya Pradesh and others Vs. Bhupender Yadav’***, 2023 INSC 837, the Apex Court examined a case where the respondent had informed about the involvement of the criminal case, however, Hon’ble Supreme Court held as under:-

“16. We are, however, unable to concur with the aforesaid view. Even though the respondent had truthfully declared that he was involved in a criminal case which was decided by the trial Court vide judgment 26th October, 2015, on perusing the facts of the said case as noted hereinabove and the observations made in the judgment, quite clearly, this was not a case of clean acquittal. It is evident from the facts narrated that after the chargesheet was filed, the respondent had arrived at a compromise with the complainant and filed an application under [Section 320](#) of the CrPC, based on which the offence under [Section 341](#) IPC was compounded. As for the remaining offences for which the respondent was charged i.e. [Section 354\(D\)](#) of the IPC and [Section 11 \(D\)/12](#) of the POCSO Act, they were non compoundable and therefore, the matter was taken to trial. The respondent was acquitted by the trial Court primarily on account of the fact that the complainant did not support the case set up by the prosecution and the other



prosecution witnesses had turned hostile. In such circumstances, the respondent's plea that he had been given a clean acquittal in the criminal case, is found to be devoid of merits.

17. This is a classic example of the situation contemplated in para 38.4.3 of [Avatar Singh](#) (supra) where the charges framed against the respondent herein involved moral turpitude and though he was acquitted on the prosecution witnesses having turned hostile, but given the facts and circumstances of the case which led to his acquittal, we are of the view that the appellant – State Government was well within its right to exercise its discretion against the respondent and terminate his services on the ground that he was unfit for appointment in the police department. Here was a case where the complainant had reneged from the statement made to the police in view of a settlement arrived at with the respondent. It is noteworthy that the incident, subject matter of the criminal case³ had occurred on 14th February, 2015, and judgment was pronounced by the trial Court on 26th October, 2015. In the very next year, when the appellant – State Government invited applications for appointment to the post of Constable, the respondent had submitted his application. Even though this is a case of candid disclosure of the criminal case on the part of the respondent, which had culminated in an acquittal, but having regard to the fact that the prosecution could not succeed in proving the case against the respondent for the reasons noted hereinabove and further, being mindful of the fact that the case involved moral turpitude and the respondent was charged with non-compoundable offences of a serious nature, we are of the firm view that the judgment of the trial Court cannot be treated as a clean acquittal.

18. The aforesaid aspects were rightly factored in by the appellant – State Government while issuing the communication



dated 24th August, 2017⁸ and declaring that the respondent was unfit for appointment to the said post. The yardstick to be applied in cases where the appointment sought relates to a Law Enforcement Agency, ought to be much more stringent than those applied to a routine vacancy. One must be mindful of the fact that once appointed to such a post, a responsibility would be cast on the respondent of maintaining law and order in the society, enforcing the law, dealing with arms and ammunitions, apprehending suspected criminals and protecting the life and property of the public at large. Therefore, the standard of rectitude to be applied to any person seeking appointment in a Law Enforcement Agency must always be higher and more rigorous for the simple reason that possession of a higher moral conduct is one of the basic requirements for appointment to a post as sensitive as that in the police service.

19. We are, therefore, of the opinion that mere acquittal of the respondent in the criminal case³ would not automatically entitle him to being declared fit for appointment to the subject post. The appellant–State Government has judiciously exercised its discretion after taking note of all the relevant factors relating to the antecedents of the respondent. In such a case, even one criminal case faced by the respondent in which he was ultimately acquitted, apparently on the basis of being extended benefit of doubt, can make him unsuitable for appointment to the post of a Constable. The said decision taken by the appellant–State Government is not tainted by any malafides or arbitrariness for the High Court to have interfered therewith. As a result, the judgement dated 17th November, 2017, passed by the learned Single Judge is upheld while quashing and setting aside the impugned judgment dated 24th January, 2018, passed by the Division Bench of the High Court. The appeal is allowed. Parties are left to bear their own costs”.



9. Thus, the Apex Court has taken a view that where a person has been acquitted by the trial Court primarily on the ground that the complainant did not support the case as set up by the prosecution and had turned hostile and the allegations against the said person are such of moral turpitude, the mere acquittal would automatically entitle to be declared fit for appointment. We rely on Clause 38.4.3 of Avtar Singh's case. However, in cases where the allegations are not of such nature, which can come within the four corners of moral turpitude and essentially is the case of family dispute where the proceedings are quashed on the basis of compromise arrived at between the parties, a person ought not be disentitled from appointment. There can be several aspects which may come into play while acquitting a person or quashing of criminal proceedings on the basis of compromise. It may be a case where mediation proceedings may also take place at the High Court level by the Mediation Center. We have time and again been encouraging for entering into a compromise where the disputes are essentially family disputes. In such matters, we cannot close the right to the fact that all the family members are sometimes arrayed as an accused. The tendency is also to include persons who are to be appointed in Government jobs in the near future. These aspects are mainly because there is an element of revenge by registering an FIR. However, later on the family members may arrive to a compromise and withdraw their allegations resulting into quashing of the proceedings by the Court under Section 482 Cr.P.C. (now Section 528 of B.N.S.S., 2023).



10. The definition of good character of an individual has to be assessed on the nature of allegations which may have been levelled and found to be proved in a trial or compromise. In the case of ***Bhupinder Yadav (supra)***, we find that the charges were levelled under Sections 354-D IPC and 11(D)/12 of the POCSO Act, he was acquitted on account of the concerned evidence not forwarded before the Court. In the said circumstances, therefore, the Hon'ble Supreme Court had observed (*supra*). However, in the present case, the situation is otherwise. The registration of FIR was disclosed by the petitioner to the respondent on the first available opportunity. The case registered against her was under Sections 147, 149, 323, 452 and 506 IPC involving all her family members. She was also asked to report for training at Lucknow after she had been offered appointment but was also asked by the bank to get clearance in the criminal case. The High Court ultimately quashed the criminal proceedings against her, vide order dated 20.07.2022. It is thereafter, that the order was passed on 17.10.2018 by the appellants denying appointment to the petitioner on the ground that a criminal case registered against the petitioner had not attained finality. Thus, we find that even the appellant had not intended to deny her appointment and only wanted her to get the criminal case cleared. In the circumstances, after she has been acquitted and the criminal case has been quashed, there is no impediment for her to be considered for appointment from the date the persons lower to her in merit were offered appointment. She would be entitled to all consequential benefits as directed by the learned Single Judge.

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11. In view thereto, we do not find any reason to interfere in the present appeal and accordingly, the order passed by the learned Single Judge is upheld. The appeal is dismissed.

12. The pending misc. application, if any, shall stands disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

29.04.2025
D.Bansal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No