



2025:DHC:9527



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

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Decided on: 31.10.2025+ W.P.(C) 218/2025 & CM APPL. 990/2025
RAJESH

..... Petitioner

Through: Mr. N.L Bareja and Mr. Saqib,
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Anjana Gosain, Ms. Shreya
Manjari, Advocates, Mr. Jayesh
Bhargava, Law Officer, AAI.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****JUDGMENT**

1. By way of this writ petition under Article 226 of the Constitution, the petitioner challenges a letter dated 09.12.2024, by which the respondent - Airport Authority of India ["AAI"], rejected his representation against cancellation of his candidature for the post of Junior Executive (Common Cadre) in AAI. Consequently, he seeks revival of his appointment to the said post.

A. Facts:

2. The petitioner applied for the post of Junior Executive (Common Cadre) on 25.08.2023, pursuant to an advertisement dated 05.08.2023 [Advertisement No. 03/2023] issued by AAI. He participated in the Computer Based Test on 14/15.10.2023, and was shortlisted for document verification in terms of notice dated 23.11.2023. His document verification was carried out on 11.01.2024, after which he was issued an offer of



appointment dated 11.04.2024. He thereafter joined the required training on 19.04.2024.

3. The petitioner's appointment was cancelled by order dated 19.08.2024 on the ground that he had been convicted of an offence involving moral turpitude, rendering him ineligible for appointment in terms of Regulation 6(7)(b) of the Airports Authority of India (General Conditions of Service and Remuneration of Employees) Regulations, 2003 ["the Regulations"].

4. The said order dated 19.08.2024 was challenged by the petitioner in W.P.(C) 13711/2024. The writ petition was disposed of by an order dated 30.09.2024, with the following directions:

"10. In view of the above, writ petition is disposed of at this stage taking on record the stand of AAI that a fresh reasoned and speaking order will be passed with regard to the offer of appointment of the Petitioner. The decision will be taken within three weeks from the date of receipt of this order and while doing so, AAI shall consider Section 12 of the Probation of Offenders Act, 1958 which provides that notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under provisions of Section 3 or Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law. AAI will also take into consideration the fact brought forth by the Petitioner that he has been working in Higher Education Department, Government of Haryana since 25.01.2019 as a Library Attendant and there is no blemish in his service so far.

11. Decision taken by AAI will be communicated to the Petitioner within one week from the date of the decision and Petitioner will be at liberty to take recourse to legal remedies, in case of any surviving grievance and if so advised."

5. By a subsequent decision dated 09.12.2024, AAI held that no valid or additional grounds had been substantiated to warrant revival of the offer of appointment. Consequently, AAI upheld the earlier cancellation of the petitioner's appointment by order dated 19.08.2024.



6. The action taken by AAI is predicated upon criminal proceedings instituted against the petitioner at the instance of his estranged wife. An FIR [FIR No. 431/2012, dated 05.10.2012] was registered against him at PS Butana, Haryana, under Sections 498A, 406 and 506 of Indian Penal Code, 1860 [“IPC”]. The criminal proceedings¹ resulted in a judgment of the Trial Court dated 04.09.2014, whereby he was convicted of the offences under Sections 498A and 406 IPC, but the offence under Section 506 IPC was held not to be established. The petitioner was sentenced to simple imprisonment of one year, in addition to a fine, on each of the charges, and the sentences were to run concurrently. The Trial Court, however, suspended the sentence on furnishing of bail bond. Although the petitioner filed an appeal² against conviction and sentence, the appeal against conviction was not pressed. By an order dated 21.09.2015, the Appellate Court noticed that the petitioner and the complainant had settled the matter, and had filed a petition for dissolution of marriage by mutual consent. Without any objection from the complainant, the Appellate Court granted the petitioner the benefit of probation under Section 4 of the Probation of Offenders Act, 1958 [“the Act”].

B. Submissions of learned counsel for the parties:

7. The principal submission of Mr. Saqib, learned counsel for the petitioner, was that the Appellate Court having released the petitioner on probation, by virtue of Section 12 of the Act, Rule 6(7)(b) of the Regulations could not have been applied to him. In this regard, he relied upon a judgment of the Supreme Court in *Shankar Dass v. Union of India and*

¹ Criminal Case No. 898/2013 before Judicial Magistrate First Class, Karnal [“the Trial Court”].

² Criminal Appeal No. 129/2014 before Additional Sessions Judge, Karnal [“the Appellate Court”].



*Anr.*³, as well as Division Bench judgments of this Court in *Shaitan Singh Meena v. Union of India and Anr.*⁴, and *Satya Pal Singh v. Union of India & Ors.*⁵.

8. Mr. Saqib also pointed out that the impugned order dated 09.12.2024 proceeds on mistaken factual considerations, inasmuch as it records that the petitioner was convicted under Section 506 IPC, in addition to Sections 498A and 406 IPC, and that he was released from custody after six months. For this purpose, Mr. Saqib relies upon an order dated 31.10.2012, which admitted the petitioner to bail, and recorded that he was in fact in custody only for a period of three days from 28.10.2012 to 31.10.2012. Mr. Saqib submits that such basic factual errors reflect non-application of mind on the part of AAI.

9. Ms. Anjana Gosain, learned counsel for AAI, on the other hand, relies upon Rule 6(7)(b) of the Regulations, and submits that there is no hard and fast rule that release on probation automatically renders the disqualification inapplicable. She cites the judgment of Division Bench of this Court in *Ajit Kumar v. Commissioner of Police & Ors.*⁶, wherein a different course was adopted having regard to the nature of the post and the nature of the offence, as well as a judgment of Division Bench of the Madhya Pradesh High Court in *Rajendra Prasad Chourey & Ors. v. Union of India & Ors.*⁷. Ms. Gosain further submits that the post of Junior Executive (Common Cadre) is an officer-level post, and AAI is entitled to apply its statutory rule against employment of convicted persons in the context of such a post.

³ (1985) 2 SCC 358 [hereinafter, “*Shankar Dass*”].

⁴ 2019 SCC OnLine Del 8216 [hereinafter, “*Shaitan Singh Meena*”].

⁵ 2025 SCC OnLine Del 5357 [hereinafter, “*Satya Pal Singh*”].

⁶ 2013 SCC OnLine Del 1521 [hereinafter, “*Ajit Kumar*”].



C. Relevant Provisions:

10. The relevant provisions of the Act read as follows:

“4. Power of court to release certain offenders on probation of good conduct. —(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1) is made, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court may, having regard to the particular circumstances, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall

⁷ 2024 SCC OnLine MP 6159 [hereinafter, “Rajendra Prasad Chourey”].



forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

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12. Removal of disqualification attaching to conviction. — Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release under section 4 is subsequently sentenced for the original offence.”⁸

11. AAI’s case is based on Rule 6(7)(b) of the Regulations, which provides as follows:

“6. Conditions for appointment in the Authority. - The following general conditions shall apply to all appointments in the Authority, namely:-

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(7) (a) Confirmation on initial appointment in the Authority shall be subject to satisfactory verification of Character and Antecedents in the Form-I in accordance with the directives issued from time to time. In case of employees joining from the Central Government or State Government or Public Sector Undertakings, such verification is not required provided their Character and Antecedents verification was done earlier by the previous employer and intimation given to the Authority to this effect.

(b) Persons convicted of offences involving moral turpitude or persons who have been dismissed from service by the Central Government or State Government or Public Sector Enterprises should be deemed to be ineligible for appointment in the Authority.

(c) No person shall be eligible for appointment who has been previously dismissed/removed or compulsorily retired from the services of the Authority or from the erstwhile International Airports Authority of India and erstwhile National Airports Authority or from a Department of State or Central Government or from any Public Sector Enterprise.”⁹

⁸ Emphasis supplied.

⁹ Emphasis supplied.



D. Analysis:

12. At the outset, it is noticed that the present case does not concern any allegation of misrepresentation or suppression against the petitioner. It is the accepted position that the petitioner declared his conviction, at the time he was required to do so, in the attestation form called for by AAI. The question is also not whether AAI was entitled, in terms of general legal principles, to disqualify the petitioner on the basis of the disclosed conviction, but whether the factum of the release on probation protects him from the rigors of disqualification under Rule 6(7)(b) of the Regulations.

13. In the context of this legal question, notice may first be taken of the Division Bench decision of this Court in *Shaitan Singh Meena*. The petitioner therein was a candidate for the post of “*Limb Maker Carpenter*” in the Artificial Limb Centre of the Government. He was convicted of offences under Sections 323, 341, 447 and 324/34 IPC, in a case arising out of a land dispute between members of the family, but was released on probation under the Act. Upon consideration of prior authorities, the Division Bench drew a distinction between cases of disqualification from appointment, which Section 12 of the Act covers, and cases avoiding dismissal from a post, which is not covered by Section 12 of the Act. The Division Bench also recorded the following conclusions:

“24. The above three decisions of the DB explain the legal position as regards grant of the benefit of probation and consequently Section 12 POA even while convicting a person. The object of Section 12 POA is to remove the disqualification attaching to the conviction. Another factor to be noted is that in each of the above three decisions, there was an additional issue regarding non-disclosure by the Petitioners of their involvement in the criminal case. Yet, that did not come in the way of their being held not disqualified for appointment to the respective posts in government service.



25. *The present case stands on an even better footing since it is not the case of the Respondents that there is any suppression of facts by the Petitioner while applying for the post. It so happened that the conviction for the aforementioned offences came about on 1st December 2016, after the Petitioner had already successfully cleared the requisite tests in November 2016. The fact of his conviction emerged during the police verification that took place in January 2017. Further, the conviction was not for offences involving moral turpitude. It was for relatively minor offences arising out of a dispute over land between families.*

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31. *As already noticed hereinbefore the Respondent is seeking to use the conviction of the Petitioner for evidently non-serious offences to disqualify him for appointment in government service by ignoring the fact that he has been released on probation thereby defeating the very object of the Section 12 POA. The Court is, therefore, not able to accept the submission of the Respondents that the conviction of the Petitioner in the aforementioned case would come in the way of his being appointed to the post of Limb Maker Carpenter in the ALC notwithstanding Section 12 POA.”*

While arriving at this conclusion, the Court ultimately directed appointment of the petitioner to the said post.

14. In *Satya Pal Singh*, which is a recent judgment of the Division Bench of this Court, the Central Administrative Tribunal had upheld an order of compulsorily retirement against the writ petitioner. However, the Division Bench reinstated the petitioner with the following observations:

“47. Under Section 4 of the PO Act, the Court is empowered to release an offender on probation of good conduct instead of sentencing him to imprisonment, if the offence is not punishable with death or life imprisonment and the circumstances of the case justify such leniency. The object of the provision is reformatory, enabling the offender, particularly first-time convicts, to reintegrate into society without undergoing the rigors of incarceration. Further, Section 12 of the said Act provides that a person released on probation under Section 4 shall not suffer any disqualification or disability attached to a conviction under any other law. Thus, the conviction may stand, but its adverse legal consequences are neutralized to ensure that the offender is not permanently handicapped in civil life.



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49. Applying this principle to the facts of the present case we find that when a criminal court has extended leniency by granting the benefit of the PO Act, to the petitioner, the Disciplinary Authority's decision to impose the one of the harshest departmental penalties of compulsory retirement appears disproportionate and excessive, especially if the same is viewed from the point that in the case of a co-employee, who has been convicted for the same offence, under Section 498A IPC and was not extended the benefit of PO Act but was retained in service by the department. This factor should have been taken into consideration by the Appellant Authority in a just and fair manner and the upholding of the punishment despite this stark disparity undermines the principle of proportionality in administrative justice.

50. At this stage it is also pertinent to mention that each case has to be examined separately. Hence the Judgement passed by this Court in *Jahan Singh(supra)* involving a specific situation of an acquittal on technical grounds and the implication thereof on the disciplinary proceedings, cannot come to the aid of the respondents in the present case.”

15. The judgment of Supreme Court in *Shankar Dass*, cited in both the aforesaid judgments, was on the question of dismissal from service, as opposed to disqualification from appointment, and is therefore not directly applicable to the facts of the present case, or the reasoning which found favour with the Division Bench in *Shaitan Singh Meena*.

16. Ms. Gosain, on the other hand, relied upon the judgment of Division Bench of this Court in *Ajit Kumar*, which considered recruitment to the post of Constable Executive (Male) in Delhi Police. The Court came to the conclusion that Section 12 of the Act does not protect an employee from disciplinary proceedings arising out of a conviction, including dismissal. This *prima facie* supports the case of AAI, but has been distinguished in *Shaitan Singh Meena* on the following grounds:

“27. The Petitioner *Ajit Kumar* had been convicted for the offence under Section 308 IPC but was released on probation. The Commissioner of Police cancelled his candidature for the post of



Constable in the Delhi Police in view of the above conviction notwithstanding that he had been released on probation.

28. The Petitioner approached the Central Administrative Tribunal which dismissed his application holding that Section 12 of the POA would not wipe away his conviction. While dismissing the petition of the Petitioner challenging the Tribunal's order, this Court referred to the decisions in Harichand v. Director of School Education (supra) and of this Court in Satraj Singh v. Union of India (supra) and Sushil Kumar Singhal v. The Regional Manager, Punjab National Bank 2007 IX AD (Delhi) 241 and concluded that Section 12 POA would not come to the rescue of the Petitioner. The Court noted that the Petitioner was seeking appointment as Constable which post required 'utmost integrity, propriety and character.'

29. The aforementioned decision is distinguishable not only on account of the post for which the Petitioner was seeking appointment viz., Constable (Executive) in the Delhi Police but also on account of the offence for which he was convicted i.e. under Section 308 IPC. As far as the present case is concerned, the conviction resulted from a dispute relating to land between two families who had filed cross cases against each other. The offences involved could not be termed serious which is why it was possible for them to settle the disputes and go before the Trial Court which recorded that fact and gave the benefit of probation to the Petitioner and his brother. Secondly, the post for which the Petitioner is seeking appointment is that of a Limb Maker Carpenter at the ALC. This is nowhere comparable to the post of Constable in the Delhi Police. Thirdly, the DB which decided Ajit Kumar did not take note of the decision of the co-ordinate Bench in Commissioner of Police v. Jagjeevan Ram (supra) where even for a post of Constable this Court was prepared to extend the benefit of the POA.

30. Consequently, the Court is unable to be persuaded that the decision of this Court in Ajit Kumar v. Commissioner of Police (supra) would apply to the facts of the present case. On the other hand, the Court finds that the present case is more or less on similar lines as Vakil Kumar Meena (supra) and on an even better footing since in the present case there is no failure by the Petitioner to disclose the fact of pendency of the criminal case."

17. Upon consideration of both these decisions of the Division Bench, I am of the view that the present case is closer to the facts of *Shaitan Singh Meena*. As in *Shaitan Singh Meena*, the dispute in the present case is also between the members of the family and was settled between the complainant



and the petitioner. The Division Bench in *Shaitan Singh Meena* indicated that *Ajit Kumar* was based upon the nature of the post for which the petitioner had applied, i.e. Constable Executive (Male). It distinguished such a situation from the post involved in that case, which was of a “*Limb Maker Carpenter*”. In the present case, the post is of a Junior Executive in the common cadre of AAI. The nature of the post has been explained in AAI’s counter affidavit as follows:

“5. That it is further submitted that the post of Junior Executive (Common Cadre) is an officer-level position. The responsibilities attached to this position demand the highest standards of integrity, propriety, and character. The selected candidates are expected to serve in key departments such as operations, commercial, and land management, which are highly sensitive in nature. Moreover, Junior Executives are part of a career progression path that may culminate in the position of Airport Director the highest managerial post at the airport level-entrusted with overseeing operations, financial and strategic planning, and coordination with various government and law enforcement agencies.

6. Given the sensitive and high-responsibility nature of the role, it is imperative that. candidates appointed to such positions possess a spotless record and impeccable professional conduct.”

Although the position is of officer-level, the aforesaid averments are generic in nature and do not bear out any analogy with a post in law enforcement or security services, as involved in *Ajit Kumar*. Even AAI’s own averments are based upon the fact that the career of a Junior Executive may ultimately culminate in a high managerial position. This is too vague and speculative a reasoning, upon which to deny the petitioner a livelihood.

18. The only other judgment cited by Ms. Gosain was the judgment of the Division Bench of the Madhya Pradesh High Court in *Rajendra Prasad*



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Chourey, which is not a case of probation at all, and is therefore, of little relevance in deciding this case.

19. In summary, I am of the view that the petitioner is entitled to the protection from disqualification enshrined in Section 12 of the Act, following the judgment of the Division Bench of this Court in *Shaitan Singh Meena*. Although the petitioner was convicted of offences under Sections 498A and 406 IPC, he was released on probation by the Appellate Court after the proceedings between him and the complainant [his wife] had been settled. This order was passed without any objection of the complainant. The marriage of the petitioner and the complainant had also been dissolved by mutual consent. The post for which the petitioner was offered appointment was not such as to require such a lasting effect of his conviction, so as to disentitle the benefit of the statutory provisions.

E. Conclusion:

20. Consequently, the petition is allowed, and the impugned order of AAI dated 09.12.2024 is set aside.

21. By an interim order dated 10.01.2025, AAI's submission was recorded that one post in the relevant category was kept vacant for appointment of the petitioner. AAI is therefore directed to appoint the petitioner against the said vacant post.

22. The pending application also stands disposed of.

23. There will be no order as to costs.

PRATEEK JALAN, J

OCTOBER 31, 2025/UK/Ainesh/