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

+ **W.P.(C) 8751/2021**

ANITA

.....Petitioner

Through: Mr. Ankur Chhibber, Adv.

versus

COMMISSIONER OF POLICE & ANR.Respondents

Through: Mr. N. K. Aggarwal, SPC.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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29.01.2025

C. HARI SHANKAR, J.

1. The respondents sought recruitment as a Constable (Exe.) (Female) in the Delhi Police. Though she was considered for appointment to the post, her candidature was cancelled on the ground that she had suffered criminal proceedings in connection with FIR 99/2013 dated 1 May 2013 for having committed offences under Sections 419 and 420 of the IPC. She was, therefore, issued a show cause notice dated 16 February 2015, calling on her to show cause on her candidature for recruitment as Constable (Exe.) (Female) in the Delhi Police be not cancelled. After considering the reply filed by her, the respondents proceeded to pass the following order on 21 April 2015:



“The Screening Committee observed that the case FIR No. 99/2013 dated 01.05.2013 u/s. 419/420 IPC & 4/6 of Rajasthan Public Examination (Prevention of unfair means) Act-1992 of PS/Buhana (Rajasthan) was registered on the complaint of one Virpal Singh Centre Superintendent of Bhura Ram Mala Vidyalaya, Meghpur, District Jhunjhunu (Rajasthan) who stated that on 01.05.2013, at about 07:30 AM one Sonu Yadav was to appear in examination of Sociology, in the first shift, against Roll No.726367 but in her place you (candidate Anita) was found appearing on checking by him. The case was charge sheeted in the Court of Judicial Magistrate, 1st Class, Buhana. The matter was compounded between the parties U/s 320 (8) of the Cr.PC and you were acquitted of the offence U/s 419/420 IPC on compromised basis vide order dated 10.09.2014. However, the case U/s 120-B IPC and 4/6 of Rajasthan Public Examination (Prevention of Unfair Means) Act- 1992 was continued for trial against Ms. Sonu.”

2. Aggrieved by the aforesaid decision, the petitioner approached the Central Administrative Tribunal¹ by way of OA 818/2017.
3. The Tribunal has, by the impugned judgment dated 12 February 2020, dismissed the OA.
4. Aggrieved by the aforesaid dismissal of the OA, the petitioner has approached this Court by means of the present writ petition.
5. We have heard Mr. Ankur Chhibber, learned Counsel for the petitioner at length.
6. Mr. Chhibber emphasizes the fact that the judgment of the Tribunal is non-speaking and does not consider any of the relevant aspects of the matter.

¹ “the Tribunal” hereinafter



7. To that extent, we are in agreement with him. It is true that the impugned judgment of the Tribunal does not advert to most of the relevant issues in controversy, and has merely rejected the respondent's OA on the ground that she had been found unfit by the Screening Committee.

8. Nonetheless, as the material on the basis of which the merits of the petitioner's case can be considered is available before us, we do not deem it appropriate to remit this case to the Tribunal.

9. Undoubtedly, the petitioner did not have, in her favour, an honourable acquittal or even an acquittal on benefit of doubt, in the criminal proceedings which were instituted against her by FIR 99/2013. The petitioner was acquitted only on the basis of a compromise executed between her and the complainant. Mr. Chhibber sought to submit that the Tribunal has not taken into account a subsequent order passed by the learned Judicial Magistrate on 20 March 2015.

10. We have perused the said order. The order concludes thus:

“25. Prosecution has been successful in proving the charges against accused Sonu u/s 3 read with section 6 of Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992 beyond reasonable doubt. Consequently, the issue No. 2 is decided in affirmation.

26. From the above elucidation of evidence, Issue No. 1 and 2 have been decided in affirmation. Hence it is found justified to convict accused Smt. Sonu under section 120B IPC and Section 3/ 6 of Rajasthan Public Examination (Prevention of Unfair Means)



Act, 1992 for punishable offence and for action under Sec 419 and 420 IPC and Sec 320 (8) cr.p.c. for accused Sonu and Km. Anita.

Order

27. Accordingly, accused Smt. Sonu D/o Sh. Ram Pratap wife of Sh. Sandip Kumar caste Ahir Rio Pali, PS Mahendergarh, Distt Mahendergarh is convicted for offence u/s 120B IPC and Section 3/ 6 of Rajasthan Public Examination (Prevention of Unfair Means) Act, 1992 and accused Smt. Sonu and Km. Anita D/o Sh. Satyavir Singh, caste Ahir. R/o Rasoolpur, PS Buhana Distt Jhunjhnu are acquitted for charges under section 419, 420 IPC and in accordance with provisions contained in Section 320(8) cr.p.c..”

11. It is clear from a reading of the aforesaid paragraphs that in fact, on merits, the learned CJM found the allegation of impersonation in the examination to have been proved. In paragraph 26 of the judgment of the learned CJM, the petitioner Anita was acquitted of the charges under Sections 419 and 420 under Section 320(8)² of the erstwhile Code of Criminal Procedure, 1973³.

12. Acquittal under Section 320(8) is on the basis of compounding of the offence by compromise. As such, this order, too, underscores the fact that the acquittal of the petitioner was only because she chose to compromise the case with the complainants. By no standards could it be treated as an acquittal on merits.

13. The Supreme Court has, in *State of M.P. v Bhupendra Yadav*⁴, held thus:

“24. The yardstick to be applied in cases where the appointment

² (8) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

³ “Cr PC” hereinafter

⁴ 2023 SCC OnLine SC 1181



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.”

In matters of appointment to disciplined forces such as the armed forces and the police, greater latitude has to be granted to the establishment regarding the candidates whom they would seek to induct. If the decision not to appoint a candidate is based on relevant considerations, the Court must forbear from interfering, lest an undisciplined candidate is inducted into a discipline force.

14. Mr. Chhibber has sought to place reliance on the judgment of the Supreme Court in *Ravinder Kumar v State of UP*⁵ and a Division Bench of this Court in *GNCTD v Robin Singh*⁶.

15. Insofar as *Robin Singh* is concerned, the decision not to appoint Robin Singh to the Police in that case was solely on the basis of concealment, by him, of his involvement in the criminal case while applying for appointment. In the present case, there is no such allegation against the petitioner. The respondent has chosen not to appoint the petitioner given her antecedents and the criminal case against her, which was compromised with the opposite party. As

⁵ (2024) 5 SCC 264

⁶ 171 (2010) DLT 705 (DB)



such, the decision in ***Robin Singh*** has no application.

16. ***Ravinder Kumar***, too, involves the same issue as is apparent from the opening paragraph of the judgment. The opening paragraph of the said judgment reads thus:

“The vexed question is back again. Is it a hard-and-fast and a cut-and-dried rule that, in all circumstances, non-disclosure of a criminal case (in which the candidate is acquitted) in the verification form is fatal for the candidate's employment? We think not and it ought not to be so too. Fortunately, we have a judicial chorus supporting our view. Each case will turn on the special facts and circumstances. We have endeavoured to analyse the applicable precedents and have followed those line of cases, which have a striking similarity to the facts at hand.”

17. Mr. Chhibber also sought to place reliance on the judgment of a Coordinate Bench of this Court in ***Pawan Singh v Commissioner of Police***⁷. In that case, the concerned officials had been acquitted of the criminal charge against them, albeit on benefit of doubt. The present case is, therefore, clearly distinguishable, as there is no honourable acquittal or acquittal on benefit of doubt in favour of the petitioner.

18. The reasons which prompted the respondent not to appoint the petitioner as Constable in Delhi Police are germane and in our view, would not brook judicial interference. We, therefore, find no reason to interfere with the judgment of the Tribunal to the extent it has dismissed the OA filed by the petitioner.

⁷ 286 (2022) DLT 553 (DB)



19. This writ petition is accordingly dismissed with no orders as to costs.

C. HARI SHANKAR, J

AJAY DIGPAUL, J

JANUARY 29, 2025

SSC

Click here to check corrigendum, if any