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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6463/2024
JEETU SINGH CHAUHANPetitioner
Through: Mr. N.U. Ahmed, Mr. Mohd.
Aman Mirza, Ms. Afsar Bano, Advs.

versus

UNION OF INDIA AND ORSRespondents
Through: Mr. Badar Mahmood, SPC with
Ms. Rhea Gandhi, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA
JUDGMENT(ORAL)

% **07.11.2025**

OM PRAKASH SHUKLA, J.

1. The present petition under Article 226 of the Constitution of India seeks issuance of directions to the respondents for reinstatement of the petitioner in the Sahastra Seema Bal¹ with continuity of service, back wages and consequential benefits. The petition further seeks quashing of memorandum dated 28.05.2021 and 24.09.2021, along with letter dated 21.02.2022, whereby the petitioner's candidature was cancelled.

2. The brief factual matrix leading to the present petition is that the petitioner was provisionally selected for the post of Constable (General Duty)² in the SSB and was issued an offer of appointment *vide* FHQ

¹ "SSB" hereinafter

² "Constable (GD)" hereinafter



SSB, New Delhi Memorandum dated 16.03.2021, posting him to the 56th Battalion, SSB Bathnaha and directing him to report at SHQ SSB, Almora (Uttarakhand) before 20.04.2021 for joining.

3. The petitioner reported on 17.04.2021, but during the documentation process, it was found that the petitioner had been imprisoned for a period of seven months and four days (i.e., from 07.04.2020 to 09.11.2020) in connection with a criminal case under Sections 306 and 34 of the Indian Penal Code, 1860³, for which he had been granted bail by the Gwalior Bench of the Hon'ble High Court of Madhya Pradesh and the matter was *sub judice* before the Sessions Court, Bhind (Madhya Pradesh).

4. Consequently, on 28.05.2021, the Commandant, SSB Almora, issued Memorandum No. 01/Recct./SHQ-ALM/2021/5441-48 cancelling the petitioner's appointment. Thereafter, the petitioner was relieved from duty and was issued a clearance certificate dated 29.05.2021.

5. However, by communication dated 23.08.2021, the Directorate General, SSB, recalled the petitioner for service and directed him to report to the Commandant, 56th Battalion, SSB Bathnaha (Bihar) on or before 11.09.2021. The petitioner reported on 09.09.2021, however, the petitioner's appointment was again cancelled by memorandum dated 24.09.2021, on the same ground as before.

6. Thereafter, on 21.02.2022, the Directorate General, SSB, again issued a memorandum finally cancelling the appointment of the

³ "IPC" hereinafter



petitioner. However, this time, the cancellation was on the ground that the petitioner had failed to report to the SSB Almora within the stipulated time.

7. Meanwhile, the trial arising out of FIR No. 753/2019 culminated in Sessions Trial No. 121/2021, wherein by judgment dated 06.10.2023, the learned Sessions Judge, Bhind, acquitted the petitioner and all co-accused.

8. Aggrieved thereby, it is in these circumstances that the present writ petition has been preferred, seeking reinstatement, with other consequential benefits.

9. Mr. N.U. Ahmed learned Counsel on behalf of the petitioner submits that the petitioner has been acquitted honourably by the learned Sessions Court, Bhind, after a full-fledged trial, wherein it was categorically held that there existed no evidence of harassment or abetment to suicide and that no role was attributable to the petitioner. Consequently, there was neither conviction nor any finding of guilt against the petitioner which could attract disqualification of the petitioner from service.

10. It is submitted that the respondents have erroneously equated judicial custody pending trial with imprisonment upon conviction, whereas the distinction between the two is well-settled in law. Reliance is placed on *UOI v. Tulsiram Patel*⁴ and *State of Haryana v. Bhajan*

⁴ AIR 1985 SC 1416



*Lal*⁵, to contend that preventive judicial custody cannot be construed as penal imprisonment.

11. It is further urged by the learned Counsel that the petitioner's name was not mentioned in the FIR initially and was added after a delay of 52 days, without any direct or circumstantial evidence connecting the petitioner with the incident.

12. The learned Counsel further submits that the impugned cancellation memorandum was effected without issuance of any show cause notice, without conducting any departmental inquiry, and without passing a speaking/reasoned order, thereby violating the principle of *audi alteram partem*. It is contended that termination without the opportunity of representation is constitutionally impermissible, as held in *Maneka Gandhi v. Union of India*⁶.

13. The learned Counsel further submits that the respondents' reliance upon the Policy of Ministry of Home Affairs⁷ dated 01.02.2012 which pertains to convicts or persons involved in offences of moral turpitude is wholly misconceived, since the petitioner was not convicted. Hence, according to the learned Counsel, the foundational facts required to invoke the aforesaid policy were altogether absent.

14. It is urged that the judgment of acquittal dated 06.10.2023, categorically observes that although the deceased had committed suicide, the prosecution had failed to prove any harassment or abetment

⁵ 1992 Supp (1) SCC 335

⁶ AIR 1978 SC 597.

⁷ "MHA" hereinafter



by the accused persons, and thus, the essential ingredients of Section 306 of IPC were not established beyond reasonable doubt.

15. It is contended that once a candidate is honourably acquitted, no stigma can be legally attached to him, and that the denial of employment would amount to a civil form of double jeopardy. Reliance is placed on *Deputy Inspector General of Police v. S. Samuthiram*⁸ and *Avtar Singh v. Union of India*⁹ to support the proposition that a person acquitted honourably cannot be denied public employment on the same grounds.

16. *Per contra*, Mr. Badar Mahmood, learned SPC on behalf of the respondents submits that the petitioner was only provisionally selected for the post of Constable(GD) in SSB through the Staff Selection Commission's recruitment process.

17. The learned Counsel places reliance on the Force Headquarters Circular No. 8/SSB/Pers-II/2021(1)/2874-98 dated 25.03.2021 and the MHA (Police-II Division) Guidelines dated 01.02.2012, wherein paragraph 2(v) provides that where a charge sheet has been filed against a candidate in respect of offences categorized as serious or involving moral turpitude, such candidate will generally not be considered suitable for appointment in the Central Armed Police Forces¹⁰, even if such candidate is subsequently acquitted due to benefit of doubt or witnesses turning hostile.

⁸ (2013) 1 SCC 598

⁹ (2016) 8 SCC 471

¹⁰ "CAPF" hereinafter



18. It is further contended by the learned Counsel that the offence under Section 306 IPC squarely falls within the ambit of “*serious offence/moral turpitude*” as enumerated in Annexure A of the 2012 MHA Guidelines. Consequently, the petitioner’s involvement in such an offence renders him unsuitable for appointment to a disciplined uniformed force such as the SSB.

19. The learned Counsel points out that the petitioner was acquitted only on 06.10.2023, long after the recruitment process had concluded, and that too by extending the benefit of doubt. As per the MHA Policy and Force Headquarters Circular dated 25.03.2021, a candidate acquitted on benefit of doubt cannot claim suitability for appointment in the CAPFs, unless the criminal court has expressly recorded that the case would not be a bar for public employment. In the present case, the judgment whereby the petitioner was acquitted does not contain such declaration.

20. Learned Counsel submits that during the period of documentation at Almora, the petitioner was never formally appointed or taken on the strength of the Force. He was merely accommodated inside the campus of SHQ, SSB, Almora, owing to the prevalence of the COVID-19 pandemic, as a temporary administrative measure. Meals were provided from the mess, and a chest number was allotted only for identification and vaccination purposes. These acts did not confer any service status or appointment rights upon the petitioner.

21. It is further contended that the petitioner’s plea of having been “appointed” or “taken on roll” is wholly misconceived. He was never appointed, nor did any right to appointment accrue in his favour, as his



candidature was subject to verification of character and antecedents, a mandatory pre-condition for employment in CAPFs.

22. We have heard the learned Counsel for both the parties and perused the record placed before us. At the outset, it emerges that the principal issue which arises for consideration in the present writ petition is whether the respondents were justified in cancelling the appointment of the petitioner to the post of Constable (GD) in the SSB on the ground of his alleged involvement in a criminal case under Sections 306 and 34 of the IPC, despite his subsequent acquittal by the competent criminal court.

23. The material facts are not in dispute. The petitioner's appointment was cancelled *vide* memoranda dated 28.05.2021 and 24.09.2021, along with letter dated 21.02.2022, primarily on two grounds: (i) that he had been "imprisoned for more than six months," and (ii) that he was "involved in an offence affecting the human body" under Section 306 IPC. The respondents, in this regard, placed reliance on the MHA Policy dated 01.02.2012 and the SSB Circular No. 8/SSB/Pers-II/2020(1).

24. Insofar as the first ground is concerned, it is not in dispute that the petitioner has never been convicted of the offence in question. The material placed before us reveals that the petitioner was "remanded to judicial custody" during investigation pursuant to FIR No. 753/2019 registered at P.S. Dehat, Bhind, M.P., and was subsequently acquitted on 06.10.2023 by the learned Sessions Judge, Bhind.



25. A perusal of the judgment of the learned Sessions Judge reveals that the Court, after evaluating the depositions of all material witnesses, recorded a clear finding that there was no evidence whatsoever to establish that the deceased was harassed, abetted, or instigated by any of the accused persons. The Court held as follows:

“18. From the above evidence, the situation is emerging that although it is proved that Anju committed suicide on the date of incident, But the prosecution has not been able to prove from the evidence that the suicide was committed as a result of torture or molestation by the accused or due to any act of the accused. In the present case, there is no evidence on record to prove the circumstances of abetment of suicide. In the present case essential elements of Section 306 of IPC are not being proved beyond doubt. Therefore, giving the benefit of doubt to the accused. They acquitted of the charges of IPC section 306 read with section 34,19. The bail order till the appeal period has been presented as per date 03.10.2023 in the light of the section 437A CrPC for the accused”. The acquittal, therefore, was not based on compromise or procedural defect, but on a substantive finding of absence of culpability.”

26. The respondents have disputed this finding with the contention that this cannot be regarded as “honourable acquittal” as it was a case involving moral turpitude. It is pertinent to note that the petitioner in the present case, was not under imprisonment. The distinction between judicial custody pending trial and imprisonment pursuant to conviction is well-recognized. The former is preventive in nature and does not carry any penal connotation, whereas the latter is arrived at upon adjudication, and is punitive in nature due to finding of guilt. Further, it must be understood that imprisonment before conviction are pre-trial custody and cannot be equated with post-conviction imprisonment, as there is no availability of ‘presumption of innocence’ as is available to an accused at pre-condition stage. The concept of presumption fades in



thin air once the person is convicted by the competent Trial Court. Therefore, a marked difference of ‘presumption of innocence’ exists in favour of the petitioner, when he was in custody during the Trial.

27. Further, the respondent’s reliance on clause (i) of the MHA Policy which disqualifies a candidate “convicted and sentenced to imprisonment exceeding six months” is wholly misplaced. The petitioner was never convicted, and his judicial custody during investigation cannot be elevated to the status of “imprisonment.”

28. The crucial question that arises next is whether the acquittal of the petitioner can be termed as “honourable.” In this regard, reference is made to *Avtar Singh (supra)*, wherein the Supreme Court laid down comprehensive principles governing employment of persons with criminal antecedents. The Court held that if acquittal is on merits and the prosecution fails to establish guilt, such acquittal must be treated as clean and honourable; whereas acquittal on technical grounds or by benefit of doubt may justify employer’s discretion to deny appointment.

29. Similarly, in *Srikanta Gorain v. Union of India*¹¹, we clarified that the “nature of acquittal” must be ascertained from the reasoning of the judgment; if the trial court finds that evidence was unreliable and the accused was falsely implicated, the acquittal is honourable and attracts reinstatement despite the MHA Circulars.

30. Applying these precedents, the acquittal of the petitioner is found to be “honourable”, since the trial court’s conclusion was one of

¹¹ W.P.(C) 8285/2025



complete exoneration based on appreciation of evidence and not on technical grounds.

31. Therefore, respondent's reliance on the MHA Policy dated 01.02.2012 and SSB Circular No. 8/2020 is of no avail to them, since Para 2(III) expressly permits consideration of a candidate who has been acquitted unless the acquittal is by benefit of doubt or due to hostile witnesses, which is not the situation in the present case. However, the respondents mechanically invoked Para 2(V) without scrutinising the trial court's reasoning, and acting arbitrarily in violation of Articles 14 and 16 of the Constitution of India, while also cancelling the petitioner's appointment without serving notice or any hearing, contrary to principles of natural justice and Rule 14 of the SSB Rules requiring adherence to due process before termination.

32. The petitioner, in the present case, is a young man from a humble background, and has a bright future ahead of him, therefore, to deny him employment despite such exoneration would amount to perpetuating stigma and punishing him for an accusation for which he has already been tried and acquitted by a competent court.

33. Thus the cancellation of appointment is arbitrary and unconstitutional. Accordingly, the impugned orders are liable to quashed and set aside. The respondents are directed to reinstate the petitioner to the post of Constable (GD), SSB, with all consequential benefits .

34. This Court further observes that in cases of acquittal on merits, the respondents must adopt a reasoned and case-specific approach in



accordance with the principles laid down in *Avtar Singh* (supra), rather than resorting to blanket mechanical rejection.

35. The writ petition is accordingly allowed in the above terms. Pending applications, if any, are disposed of.

36. There shall be no order(s) as to costs.

OM PRAKASH SHUKLA, J.

C. HARI SHANKAR, J.

NOVEMBER 7, 2025/rjd/gunn