



2025:DHC:11555-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 15.12.2025

+ W.P.(C) 10039/2024 & CM APPL. 41040/2024
GOVT OF NCT OF DELHI AND ORSPetitioners
Through: Mrs. Avnish Ahlawat, SC with
Mr. Nitesh Kumar Singh,
Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advs.
versus
KULDEEPRespondent
Through: Mr. T. D. Yadav, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 13.02.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 2660/2021, titled ***Kuldeep v. Govt. of NCT of Delhi, Through the Chief Secretary & Ors.***, allowing the O.A. filed by the respondent herein with the following directions:

"11. As an outcome, the applicant shall be entitled for employment with effect from the date other successful candidates to the post of Grade-IV (DASS), post code 02/17 have been appointed, albeit on notional basis. Necessary consequential benefits shall also be extended to the applicant on notional basis with effect from the date of appointment and on actual basis with effect from the date, he assumes the charge of the post.

12. The directions contained hereinabove, in



their totality, shall be implemented, including release of financial benefits, appropriate place in the seniority etc. to the applicant within a period of six week from the date of receipt of a copy of this order.

13. However, since much time has lapsed the position of the last selected candidate in the SC category shall not be disturbed in terms of the interim order dated 24.11.2021. Therefore, to give effect to these directions, the respondents shall create a supernumerary post, if required.”

2. To give a brief background of the facts out of which the present petition arises, the respondent was selected to the post of Grade IV (DASS) in the selection process undertaken by the petitioners, and was issued an offer of appointment on 01.01.2021. However, *vide* the impugned communication dated 26.10.2021, the offer of appointment was withdrawn and the candidature of the respondent was cancelled on the ground that during the verification of character and antecedents, it was informed that a FIR No. 176/18, registered at PS Shalimar Bagh, New Delhi under Section 341 and 323 of the Indian Penal Code, 1860, was pending trial against the respondent. The Screening Committee of the petitioners, therefore, decided to cancel the offer of appointment given to the respondent. Challenging the same, the respondent filed the above O.A. before the learned Tribunal.

3. The learned Tribunal, by its Impugned Order, noted that the respondent already stood acquitted in the above FIR, and therefore, the basis for cancelling his candidature no longer survived.

4. The learned counsel for the petitioners submits that merely because the respondent had been acquitted at a later stage, will not in



any manner affect the decision taken by the employer to find the respondent as unfit for appointment. He submits that such a decision lies within the domain of the petitioners as the employer.

5. On the other hand, the learned counsel for the respondent submits that, leave alone the fact that the respondent had been falsely implicated in the above FIR, he was not even put to trial. Even the other accused in the trial have since been acquitted for lack of any evidence from the prosecution.

6. We have considered the submissions made by the learned counsels for the parties.

7. While it cannot be disputed that as an employer, the petitioner has a right to assess the suitability of the candidate, especially in light of any criminal antecedents that the candidate may possess, however, the same cannot be exercised arbitrarily. Merely because an FIR has been registered against the candidate, it would not lead to automatic forfeiture of the right of such candidate for appointment. The petitioners must assess the nature of the allegations against the candidate to determine his/her suitability for appointment. While an acquittal at a later stage may not by itself be a ground to vitiate the decision of the employer finding such candidate unfit for employment because of some criminal antecedents, at the same time, it would be a relevant factor.

8. We place our reliance on the Judgment of the Supreme Court in *Avtar Singh v. Union of India* (2016) 8 SCC 471, wherein the Apex Court has laid down the following guidelines concerning the cases of appointment involving the candidates with criminal antecedents:



“34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects.

37. The “McCarthyism” is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformatory theory cannot be ruled out in toto nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for cancelling candidature or discharging an employee from service.

38.6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case.”

(Emphasis Supplied)

9. In the present case, having regard to the allegations made in the FIR and the fact that the respondent was neither put to trial nor named as an accused, which aspect has not been considered by the petitioners, therefore, we find that the decision to cancel the candidature of the respondent was arbitrary and stands vitiated.

10. We also find that by an Order dated 16.01.2023, passed by the Court of MM-07 (North West District) Rohini Courts, Complex, Delhi in ***State v. Mulchand*** in FIR No.176/18, even the other accused who were put to trial in the said FIR have already been acquitted.

11. Accordingly, we find no infirmity in the order passed by the learned Tribunal.



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12. The petition is, therefore, dismissed. The pending application also stands disposed of.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 15, 2025/b/k/pb