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IN THE HIGH COURT OF DELHI AT NEW DELHI

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**W.P.(C) 12743/2024
DURVIN KUMAR**

.....Petitioner

**Through: Mr. Sahil Mongia, Ms.
Sanjana Samor and Mr. Yash Yadav,
Advs.**

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Umang Chopra, Adv.**CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA****JUDGMENT(ORAL)**

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18.08.2025**OM PRAKASH SHUKLA, J.**

1. The petitioner has filed the present writ petition assailing the communication dated 03.09.2024 issued by the Deputy Inspector General, CISF, Ministry of Home Affairs, whereby the offer of appointment issued to him on 31.12.2023 for the post of Constable/DCPO was withdrawn on the ground that he was declared “unsuitable for employment in CISF”, in view of a pending criminal case arising out of matrimonial disputes.

2. The facts relevant to this case as available from the records would show that the respondents issued an advertisement inviting



applications for recruitment to the post of Constable/DCPO in CISF¹ in January, 2023. The petitioner finding himself eligible applied to the said post in February 2023 and was as such called to participate in the physical and driving tests conducted by Respondent No. 2 between 29.06.2023 and 07.07.2023.

3. The petitioner further states that on 31.10.2023, he appeared in the written examination, and upon declaration of the results on 21.12.2023, his name was reflected in the list of successful candidates. He was thereafter called for medical examination at Ranchi between 29.12.2023 and 31.12.2023, where he was found fit, and was also issued a joining letter dated 31.12.2023 for the post of Constable/DCPO.

4. Pursuant to the issuance of his joining letter dated 31.12.2023, the petitioner reported at the Regional Training Centre, Bhilai, Chhattisgarh on 24.03.2024 for commencement of basic training programme scheduled for the post of Constable/DCPO in CISF. Apparently, the petitioner along with other candidates were directed by the respondent No.4 to disclose the pendency of criminal cases(s), if any, against them and their status. Thus, the petitioner as required, disclosed that a criminal case was pending against him, being FIR No. 74 of 2021 registered at Police Station Bichda, District Mainpuri, Uttar Pradesh, on the complaint of his sister-in-law (*Bhabhi*), under Sections 498A, 323 and 506 of the Indian Penal Code, 1860², PS: Bichda, Mainpuri, Uttar Pradesh.

¹ “Central Industrial Security Force” hereinafter

² “IPC”, hereinafter



5. Thereafter, the candidature of the petitioner was placed before the Standing Screening Committee for consideration on 04.04.2024 and the same day by a letter, wherein it was communicated to the petitioner that his training will be halted till the suitability of the petitioner is examined by the said committee. The petitioner aggrieved, preferred W.P.(C) 5640/2024, before this Court, praying *inter alia* for issuance of a writ to quash and set aside the impugned letters dated 04.04.2024, whereby the petitioner's candidature was referred to the Standing Screening Committee solely on the ground that his name appeared in a Final Report, notwithstanding that such offences do not amount to moral turpitude and as such prayed to continue his training for the post of Constable-cum-Driver in CISF. However, the said writ petition was disposed of vide an order dated 23.04.2024 with a direction to the Standing Screening Committee to consider the petitioner's suitability within eight weeks.

6. Thereafter, on 16.05.2024, the petitioner addressed a representation to the authorities in relation to the aforesaid FIR and subsequently, vide letter dated 04.07.2024 & 29.07.2024, the petitioner was directed to submit his Character and Antecedents Certificate along with a copy of the judgment in the criminal proceedings. However, the petitioner admittedly was unable to furnish the same as the trial in the said case was still pending.

7. Subsequently, the respondent No. 1 issued a communication dated 03.09.2024, thereby withdrawing the offer of appointment dated 31.12.2023 issued to the petitioner, recording that upon scrutiny by



the Standing Screening Committee and in light of the directions of the Ministry of Home Affairs, the petitioner had been found “unsuitable for employment in CISF”. The communication stated that:

“However, during the course of joining procedure, it is found that criminal case has been pending against you. As per direction, the details of the case have been forwarded to CISF Standing Screening Committee at CISF HQ New Delhi for ascertain suitability of candidature for appointment in CISF.

03. After meticulously examine by CISF Standing Screening Committee and in the light of direction/instruction issued by MHA you have been declared "Unsuitable for employment in CISF ".

04. In this regard, it is intimated that, the offer of appointment issued to you vide letter under reference is hereby withdrawn. No further joining request will be considered /entertained by this office in future.”

8. In the aforesaid background, the petitioner has approached this Court under writ jurisdiction impugning the communication dated 03.09.2024.

9. Learned counsel for the petitioner contends that the impugned letter is in contravention of the Policy Guidelines/Office Memorandum dated 01.02.2012 which specifically provides that in cases arising from matrimonial disputes under Sections 498-A, 406 IPC and allied provisions of the Dowry Prohibition Act, 1961³, as disqualification may only be attracted where the candidate is the “main accused”, and not where he is a collateral relative such as a *devar* or *jeth*.

10. According to him, the petitioner has been named in the said standalone criminal case, being FIR No. 74/2021 registered under

³ “The 1961 Act”, hereinafter



Sections 498A, 323, and 506 of the Indian Penal Code, 1860, at the instance of his sister-in-law (*bhabhi*). It is further pointed out that even as per the respondents, the said complaint was instituted by the sister-in-law of petitioner and that the primary accused therein is the brother of petitioner. The petitioner has been implicated only by virtue of his relationship as *devar*, and no independent allegation of overt act is attributable to him. It is argued that the matter thus stands squarely covered by the Policy Guidelines/Office Memorandum dated 01.02.2012, which carves out a clear distinction between a “main accused” and “collateral relatives” in matrimonial disputes, and the impugned action has been taken in complete disregard thereof.

11. The learned Counsel has also placed reliance on a Division Bench decision of this Court in **Vikram Ruhel v. Delhi Police & Ors.**⁴, wherein it was held that mere naming as an accused person in an FIR pertaining to matrimonial disputes cannot *ipso facto* be treated as an impediment for public appointment, particularly in the absence of any material to substantiate that person’s involvement. The learned Counsel in order to drive home his contention has relied on paragraph 26 & 27 of the said Judgment, to highlight the observation of the coordinate bench relating to aspect of increasing tendency of complainants to rope in all family members of the husband in matrimonial prosecutions and often these cases being settled subsequently. Thus, it has been submitted by the learned counsel that mere naming a person in an FIR cannot justify exclusion from public employment.

⁴W.P.(C) 5718/2023



12. He has also relied on a judgment dated 30.09.2024 of the Allahabad High Court in ***Baba Singh v. State of U.P. & Ors.***⁵, wherein it was emphasised that prosecutions emanating from domestic discord cannot be equated with “criminal antecedents” warranting exclusion from service. The Court in that case had held that complaints under Section 498-A IPC are often lodged against the husband’s entire family with a view to exert pressure, and to treat such collateral accusations as a disqualification for public employment would result in grave injustice and loss of public talent. Thus, it has been impressed upon by the learned Counsel, that the impugned communication dated 03.09.2024 does not withstand scrutiny either on the touchstone of the Policy Guidelines or the binding precedents, and is therefore liable to be set aside.

13. Learned counsel for the respondents, per contra, opposed the writ petition and urged that no interference is warranted in the impugned order. It was submitted that pursuant to the offer of appointment dated 31.12.2023, the petitioner had reported for training at RTC Bhilai on 24.03.2024. However, during the training stage, it was found that FIR No. 74/2021 under Sections 498A, 323 and 506 IPC stood registered against him and that a charge-sheet had also been filed on 18.03.2021. In view thereof, it was submitted by the learned counsel for the respondents that the petitioner was rightly not permitted to commence training and was directed to furnish relevant case documents so that the matter could be placed before the Standing Screening Committee. According to him, the case details were subsequently forwarded to the AIG/TS, CISF Headquarters, New

⁵Writ-A No. 12055/2024



Delhi, by communication dated 04.05.2024 and in view of the direction of this Court in an earlier instituted W.P.(C) 5640/2024, disposed of on 23.04.2024, wherein a direction was given to the Standing Screening Committee to consider the petitioner's suitability within eight weeks, the 19th Standing Screening Committee, examined his case thoroughly with reference to the Office Memoranda of the Ministry of Home Affairs dated 01.02.2012, OM dated 18.07.2019 and corrigendum dated 16.07.2020, as well as the law declared by the Hon'ble Supreme Court in *Avtar Singh v. Union of India*⁶ and after due deliberation, by its communication dated 27.07.2024, the Committee concluded that the petitioner was unsuitable for appointment, which decision was subsequently conveyed to him through office order dated 03.09.2024.

14. Learned counsel for the respondents emphasised that CISF is a paramilitary force guarding vital installations of national importance, where the highest standards of discipline, morality and integrity are indispensable. Since the petitioner stands charge sheeted in a criminal case, his moral character and trustworthiness cannot be vouched for at this stage. It was contended that permitting his induction would not only prejudice the discipline of the Force, but would also set an undesirable precedent, encouraging similarly placed candidates to demand appointment despite pendency of criminal trials.

15. It was also urged by the learned Counsel that the petitioner cannot seek to trivialise the allegations by describing them as "mere matrimonial disputes" or by emphasising his role as a '*devar*'. The

⁶(2016) 8 SCC 471



fact remains that he is facing trial under Section 498A IPC and allied provisions, which relate to offences against a woman belonging to a vulnerable class and until and unless he is not acquitted by a Competent Court, such charges cannot be ignored for the purpose of recruitment in a disciplined force. Further, the claim of innocence being a matter of defence in trial and it cannot be a ground to compel the CISF to appoint the petitioner at this stage and the presence of many women personnel in CISF necessitates heightened vigilance in ensuring a secure and respectful workplace, was highlighted by the learned Counsel to contend that the appointment of a candidate facing such charges would be wholly inappropriate and as such the rejection order dated 03.09.2024 did not suffer from any infirmity and the writ petition may be dismissed.

16. Having considered the submissions advanced and after due deliberation of the facts available from records, this Court finds merit in the contention of the petitioner that his case is squarely covered by the policy guidelines issued by the Ministry of Home Affairs, as also by the principles laid down by this Court in ***Vikram Ruhel v. Delhi Police & Ors (supra)***.

17. This Court finds that this court vide an order passed in ***Het Ram Meena v. Union of India***⁷ had directed the Government of India to formulate guidelines for considering the cases of the candidates against whom any criminal cases were registered before applying for the various posts in CAPFs,. Pursuant to the said directions, the Government of India vide an Office Memorandum dated 01.02.2012

⁷ Writ Petition No. 2930/ 2011



issued a slew of policy guidelines and provided a list, wherein candidates would not be considered for recruitment and/or would be considered undesirable for employment under CAPFs. The said policy decision also enumerates the various offenses under Annexure-A in that regard and admittedly under the provision meant for offences relating to marriage and the 1961 Act, Section 498A, the said annexure in clear terms states; to quote:

“In cases relating to marriage i.e. Section 498-A/406 IPC and Dowry Prohibition Act. The candidate may be debarred if he is main accused and not collateral accused such as Devar, Jeth etc. if the offence of 304B etc. is committed with 498-A he may be debarred.”

18. This court finds that similar qualifying provisions are conspicuously absent from other enumerated offenses named under the aforesaid Annexure-A. Apparently, it seems that the policy decision of the respondents provided for a shield or rather an exception to the general rule of debarment and provided that in case a candidate is a collateral accused such a *devar*, *jeth* etc. in an FIR relating to offence of matrimonial dispute, the said *devar*, *jeth* etc. may not be barred, however, in case the offence is of grave nature like section 340B is added along with section 498A IPC, he may be barred. Thus, the object of the policy is clearly to give some kind of solace to those candidates, who may have been roped in by virtue of family ties, without any substantive role being attributed to him, like the *devar* or *jeth* etc. Admittedly, the petitioner is a *devar* of the complainant and is a named accused in the FIR lodged by his sister-in-law, however this court finds that the impugned letter does not deliberate nor discusses about the said policy decision of the Government of India and has in a



way brushed aside this explicit distinction and has proceeded on the sole basis of the petitioner's name being referred in the FIR, which according to this court is clearly in derogation of the policy decision of the respondents themselves.

19. Further, it is not in dispute that the petitioner is involved in the present standalone criminal case, FIR No. 74/2021, which stems from a matrimonial dispute filed by his sister-in-law, where the main accused is his brother and his own implication is merely as a collateral relative. A bare perusal of the FIR or the charge-sheet filed does not disclose any independent or overt act attributable to the petitioner. Thus, this Court is of the view that the respondents were required to assess the candidature of the petitioner on the anvil of his actual role attributable to him rather than to rush and brand him as unsuitable, on the sole ground of existence of the FIR, which essentially arises from a matrimonial dispute.

20. This court finds that the reliance placed by the learned Counsel for the petitioner on the principle enunciated in the judgment of a coordinate bench of this court in "**Vikram Ruhel v. Delhi Police &Ors**".(supra), fully applies to the facts of the present case. The Division Bench categorically held that mere naming in an FIR in a matrimonial dispute does not ipso facto constitute a ground for rejection, unless investigation discloses substantive involvement. The Division Bench in that matter and rightly so also took judicial notice of the tendency of complainants of matrimonial dispute to implicate all family members of the husband. The ratio of that case squarely covers the present case where the petitioner, a *devar*, has been named



without any independent allegation. This court finds that the respondents while considering the suitability of the petitioner in the background of an FIR arising out of a matrimonial dispute has recorded in the impugned letter; to quote:

“Reference to offer of appointment issued to you vide letter No E-32015/CISF/2nd RB(R)/RECTT/CT(DVR & DCPO-2022)/2023-631 dated 31.12.2023 by Commandant of CISF Unit CISF 2nd RB Ranchi. As per the letter you were directed to report to this RTC on 24.03.2024 (FN) for basic training.

02. However, during the course of joining procedure, it is found that criminal case has been pending against you. As per direction, the details of the case have been forwarded to CISF Standing Screening Committee at CISF HQrs New Delhi for ascertain suitability of candidature for appointment in CISF.

*03. After meticulously examine by CISF Standing Screening Committee and in the light of direction/instruction issued by MHA you have been declared **"Unsuitable for employment in CISF"**.*

*04. In this regard, it is intimated that, the offer of appointment issued to you vide letter under reference **is hereby withdrawn**. No further joining request will be considered /entertained by this office in future.*

05. Acknowledge the receipt”

21. Thus, this court finds that in the facts and circumstances of the present case, the Competent Authority has failed to consider its own binding policy decision issued vide OM dated 01.02.2012 in the correct perspective and the decision apparent seems to have been merely swept by the factum of the petitioner being named in the FIR. Further, there is nothing else on record to reflect that the antecedents of the petitioner disqualifying him in any manner for his appointment were taken into consideration, not to talk of the judgment passed by a coordinate bench of this court in **Vikram Ruhel (Supra)**. To the same



effect is another judgment relied upon by the learned counsel for the petitioner, in the case of ***Baba Singh v. State of UP and 2 Others***⁸, wherein the Allahabad High Court was examining similar issue relating to cancellation of a selected candidate for the post of Asst. Boring Technician in the department of Minor Irrigation on the ground that his elder brother and the elder brother's wife did not get along together which led the elder brother's wife's father to lodge a criminal complaint against the petitioner's elder brother and all his family members including the petitioner before the Chief Judicial Magistrate, under Section 498A, 323 I.P.C. and Section 4 of the 1961 Act. The said court, after examining the prevailing judgments assertively recorded as follows:

“Prima facie, even if the proceedings had not been stayed, the entire law which empowers the employer to keep a man of criminal antecedent out of his establishment never intends to exclude candidates who may have become victims of prosecutions involving family matters by relatives. A complaint under Section 498A is by now reputed to be lodged against the entire family in order to pressurize them so that the husband patches up with the wife on disadvantageous terms or whatever be the reason. If offences of this kind are to be taken into consideration to judge a prospective candidate's criminal antecedent much disservice shall be done to the cause of public employment. Many a good talent would be lost to such frivolous complaints or first information reports lodged at the instance of the wife not just against her husband but some of his relatives like a brother or a nephew. It is well known that in complaints of this kind even neighbours are indicted. If this kind of the complaints were accepted to exclude from public employment the neighbour who is named in an FIR lodged by a third person's wife against her husband would also be disentitled to public employment. That is never the intention of the law when the principles to exclude persons with criminal antecedents evolved as important criteria to exclude undesirable elements from public service”.

⁸ Writ - A No. - 12055 of 2024



22. Similarly, in the present case, it is evident that the petitioner has been implicated in the present standalone FIR arising out of a matrimonial dispute, wherein he is a collateral relative (*devar*) and not the main accused. No independent overt act is attributable to him. Moreover, there has been no suppression of material facts by the petitioner, and there is no conviction against him. Keeping in tandem with the policy decision taken by the Government of India, this court is of the view that the intention behind incorporating a specific exception for offences relating to matrimonial dispute in the OM dated 01.02.2012, it was always intended that naming of a collateral relative in such kind of dispute in an FIR would not be akin to judge a prospective candidate's criminal antecedent for public employment. This court cannot be oblivious to the fact that many a case have been lodged at the instance of the wife not just against her husband but some of his relatives like a brother or a nephew, so as to create some kind of pressure on the in-laws, so that ultimately the same gets settled. It is well known that in complaints of these kinds sometimes even neighbours or match-makers are indicted and as such to hold that this kind of FIR were to be accepted, so as to exclude any person from public employment, would be travesty of justice.

23. Further, as regards the non-suitability of the petitioner on any other ground, this court finds that no other complaint or any issue relating to integrity or immorality has been brought forward by the respondents nor the same has even pleaded and as such it would be difficult for this court to presume that the petitioner would be a threat to the discipline of CISF Force merely on account of registration of the aforesaid FIR wherein he has been named as an accused in the



ensuing matrimonial dispute between his elder brother and sister-in-law. The contention of the respondents that CISF, requires the highest standards of morality, integrity, and trustworthiness and since the petitioner is facing criminal charges under Section 498A IPC and related provisions, his moral character cannot be vouched for, and allowing his induction could undermine discipline and set a negative precedent; cannot be accepted as the guidelines issued by Ministry of Home Affairs explicitly covers petitioner's case, nor there exists any causal link between the offences alleged and the grounds mentioned by the respondents.

24. Further the contention that matrimonial disputes cannot be trivialized, and his claim of innocence is a matter for trial, not for recruitment cannot be accepted for the reason as stated above and even the reliance placed by the respondents on cases such as ***Avtar Singh v. Union Of India & Ors***⁹ does not further the argument of the respondents, which essentially was related to consequences and effect of acquittal, concealment of criminal case on appointments, etc., which is not the case presently.

25. This court finds profitable to quote a Judgment of the Hon'ble supreme court in the case of ***Dara Lakshmi Narayana v. State of Telangana***¹⁰, cautioned against the injustice caused by mere implication of family members in matrimonial disputes and stated that:

⁹(2016) 8 SCC 471

¹⁰2024 SCC OnLine SC 3682



“A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos. 2 to 6, who are the members of the family of appellant No. 1 have been living in different cities and have not resided in the matrimonial house of appellant No. 1 and respondent No. 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.”

26. For all the aforesaid reasons, this court is of the view that matrimonial disputes of this nature, wherein the petitioner is not the main accused and is a collateral accused (*devar*) as per OM dated 01.02.2012, the mere inclusion of his name in the FIR should not be a bar for seeking public employment, without any explained overt act attributable to him. Accordingly, the present writ petition deserves to be allowed and as such the impugned order dated 03.09.2024 is quashed with consequential reliefs. There shall be no order(s) as to cost.

OM PRAKASH SHUKLA, J.

C. HARI SHANKAR, J.

AUGUST 18, 2025/ng