

Neutral Citation No. - 2024:AHC:106410-DB

A F R

Court No. - 29

Case :- SPECIAL APPEAL No. - 557 of 2024

Appellant :- Ram Sewak

Respondent :- Honble High Court Judicature At Allahabad
Recruitment Cell And 2 Others

Counsel for Appellant :- Puneet Bhadauria

Counsel for Respondent :- Ashish Mishra,C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Puneet Bhadauria, learned counsel for the petitioner-appellant and Sri Fuzail Ahmad Ansari, learned Standing Counsel for the respondents.

2. The instant appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is directed against the judgment and order dated 22.04.2024 passed in Writ A No.4727 of 2024 (Ram Sewak vs. Hon'ble High Court Judicature at Allahabad and 2 others) whereby learned Single Judge has proceeded to dismiss the writ petition at the admission stage. For ready reference, the said judgment is reproduced as under:-

“Heard learned counsel for the petitioner and Sri Fuzail Ahmad Ansari, learned counsel appearing for the High Court. Present writ petition has been filed against the order 28.7.2023 passed by the respondent no.3 by which the services of the petitioner has been terminated.

Learned counsel for the petitioner submits that in pursuance of the advertisement dated 27.10.2022 issued by the High Court recruitment cell in the year 2020-23 the petitioner applied for the post of Group "D" on 15.12.2022. After completing the selection process appointment letter no. 1245 dated 1.6.2023 was issued to the petitioner. Thereafter the petitioner joined his duties at District Court, Etah on 24.5.2023. The petitioner has submitted an affidavit wherein it has been specifically mentioned that no criminal proceeding is pending against him. During the police verification it has been found that Case Crime No. 392/2022 under section 232,

452, 504, 506, of IPC is pending against the petitioner. He further submits that the petitioner was not aware about the pendency of the aforesaid criminal proceedings before applying for the said post. He prays for allowing the writ petition on the ground that he was not aware about the criminal case being pending against him. Per contra, learned counsel appearing for the High Court submits that the petitioner has full knowledge about criminal case and concealed the same while filing the affidavit. He further submits that it has specifically been mentioned in paragraph no. 7 and 8 of the affidavit that no criminal case is pending against him. He further submits that since the criminal case is pending against the petitioner the impugned order has rightly been passed and the writ petition may be dismissed.

After hearing the learned counsel for the parties and going through the materials on record, the Court finds that since the criminal case was pending against the petitioner and in the affidavit the petitioner has concealed the same, no relief can be granted to the petitioner. No interference is called for in the impugned order dated 28.7.2023.

The writ petition is accordingly dismissed.”

3. The brief facts of the case culled out from the record are that in pursuance of the advertisement No.02/Sub Court/Group 'D'/2022 dated 27.10.2022 issued by the High Court Recruitment Cell in the year 2020-23 the petitioner applied online for Group "D" post on 15.12.2022, which was completed successfully. After submitting the online form the petitioner entered in the examination as required by the Recruitment Cell Committee and has been selected for the said post. Consequently, the Chairman, Administrative Committee, District Court Etah had issued information letter no.131 dated 20.05.2023 regarding the appointment. Thereafter, vide letter no.1245 dated 01.06.2023, the respondent no.3 i.e. District Judge, Etah had issued appointment letter to the petitioner. In response thereof, the petitioner joined the Group 'D' post at District Court, Etah and started discharging his duties.

4. It further transpires from the record that as per para-6 of the directions/instructions of the High Court, an undertaking on affidavit was required to be furnished by the selected candidate declaring that

neither any criminal case/proceeding is pending against him/her nor he/she has been convicted by any criminal court. Further, if such information is not furnished at the time of joining, the candidature/ appointment of such candidate shall be forfeited/ cancelled by the appointing authority. In the present matter, the petitioner had submitted an undertaking on affidavit, wherein it has been specifically mentioned that no criminal case is pending against him. Later on, during police verification, it had surfaced that Case Crime No.392/2022 under Sections 323, 452, 504, 506 IPC has been registered against the petitioner on 14.12.2022 at Police Station Linepar, District Firozabad. In the said proceeding, after investigation, the Investigating Officer had submitted chargesheet/ police report against the petitioner on 08.01.2023 on which the concerned Magistrate had also taken cognizance on 18.7.2023. Thereafter, case was registered as Criminal Case No.25068 of 2022 (State vs. Anuj @ Ramsevak and others), wherein the trial court had commenced the proceeding against the petitioner and other co-accused. Finally in the said proceeding, the petitioner had been acquitted on 25.9.2023.

5. Once during the police verification it was disclosed that the aforesaid Case Crime No.392 of 2022 was registered against the petitioner, the respondent no.3 had issued a show cause notice to the petitioner on 14.07.2023, which was responded by the petitioner on 19.07.2023. Finally, by the order dated 28.07.2023 the District Judge, Etah had dispensed with the services of the petitioner, which is impugned in the writ petition. Learned Single Judge vide impugned judgement and order dated 22.04.2024 had considered the grounds of challenge in the writ petition and proceeded to dismiss the writ petition with aforequoted judgment.

6. Learned counsel for the petitioner-appellant has vehemently submitted that learned Single Judge has erred in law while dismissing the writ petition and failed to consider the relevant aspect of the matter that at the time of filling up the form no criminal case was registered against the petitioner. Even the petitioner was having no knowledge of criminal case at the time of swearing of affidavit for appointment. Therefore, the allegation of concealment of information in the declaration form is baseless. Even in the criminal proceeding, later on, he was acquitted. He submits that the seriousness of the allegations levelled against the petitioner-appellant as well as his suitability for his engagement ought to have been examined by the Appointing Authority in view of law laid down by the Apex Court in the case of **Avtar Singh v. Union of India**¹. He has also placed reliance on the judgment passed by the Apex Court in **Pawan Kumar v. Union of India**² and the judgment passed by this Court in **Nikhilesh Kumar Gautam vs. State of UP and other**³.

7. Per contra, Sri Ansari, learned counsel appearing on behalf of the respondents has vehemently opposed the appeal and submitted that it is not a case, where the petitioner had concealed the pendency of criminal case at the time of filling up the form. He submitted that at the time of appointment an affidavit was required to be submitted in view of the direction of the High Court as contained in information regarding appointment dated 20.05.2023, wherein, it was specifically required to disclose as to whether any criminal case is registered against him and as to whether he has even been tried in a criminal proceeding or any criminal proceeding is pending against him, or whether he has been convicted or acquitted by any court. If the answer was 'Yes' then details

1(2016) 8 SCC 471

2(2022) Supreme (SC) 391

3 2024 (6) ADJ 8 (DB)

of the case were required to be given. The information also contained the specific stipulation in the form of undertaking that if any of the above facts have been concealed, then the appointment of the applicant be cancelled.

8. Sri Ansari assertively submitted that the affidavit of the petitioner has been admittedly prepared and sworn on 24.5.2023 and much prior to it i.e. on 8.1.2023, in the said criminal case, chargesheet was already submitted to the competent court and even cognizance was also taken by the trial court.

9. Learned counsel for the respondents has further raised objection that as alleged offences are punishable below seven years, hence during the investigation, notice under Section 41-A CrPC was also served upon the petitioner, which he had received. He had not only made endorsement on the said notice but also mentioned his phone number on it. It is submitted that the petitioner had unequivocally declared on oath that no criminal case was pending against him, therefore, present case relates to concealment of fact. The quantum of punishment or acquittal would have no bearing in the present case. He submitted that the notarised affidavit is crucial part of the verification and in case any false information is furnished, the same requires no leniency and the candidature has been rightly rejected. He submitted that the competent authority had accorded opportunity to the petitioner and later on dispensed his services on account of concealment of material fact at the time of furnishing the notarised affidavit in view of the High Court's direction.

10. Learned counsel for the respondents submitted that the judgment heavily relied by learned counsel for the appellant in **Nikhilesh Kumar Gautam (supra)** is distinguishable in the present matter as in the said

case, admittedly a closure report was submitted before swearing the affidavit, whereas in the present matter, the petitioner-appellant had duly endorsed on the notice under Section 41-A CrPC, much prior to swearing of affidavit and even chargesheet was also submitted to the competent court in which the trial court has also taken cognizance. Therefore, it cannot be accepted that at the time of swearing of affidavit, the petitioner had no knowledge regarding ongoing criminal proceeding. In support of his submissions, he has placed reliance on Rule 13 (2) of Uttar Pradesh State District Court Service Rules, 2013 (in short "Rules, 2013"), which provides that the inclusion of the name of a candidate in any list published under Rule 12 shall not confer any right of appointment. He has also placed reliance on the judgment passed by the Apex Court in **Imtiyaz Ahmad Malla v. State of Jammu and Kashmir**⁴.

11. Heard rival submissions, perused the record and respectfully considered the judgments cited at Bar.

12. The facts as emanates from the record are that under the advertisement dated 27.10.2022 the petitioner submitted an application on 15.12.2022 for being considered for appointment on Class-IV post in the District Judgeship. In the examination, he was declared successful and called for document verification. The petitioner was also required to furnish an affidavit disclosing whether any FIR has been lodged or criminal case is pending against him or not. It is apt to have a glance on the letter dated 20.5.2023, which for ready reference, is reproduced as under:-

"कार्यालय: अध्यक्ष, प्रशासनिक समिति, जनपद न्यायालय, एटा

पत्रांक: 131/केंद्रीय नाजिर/2023, एटा दिनांकित: 20/5/23
नियुक्ति के संबंध में सूचना

4 2023 AIR (SC) 1308

श्री रामसेवक पुत्र श्री उदल सिंह
 ग्राम-गुंदाउ थाना-लाइनपार,
 जिला-फिरोजाबाद (उ०प्र०)

माननीय उच्च न्यायालय इलाहाबाद के पत्रांक संख्या 1334/2023 Recruitment Cell/High Court dated 16.05.2023 के संबंध में आपको सूचित किया जाता है कि आपका चयन "The Uttar Pradesh Civil Court Staff Centralized Recruitment 2022-23 के अन्तर्गत समूह "घ" कैडर पोस्ट (पोस्ट कोड-04) के पद पर माननीय उच्च न्यायालय की रिक्रूटमेंट समिति द्वारा किया गया है, उसके आधार पर आपकी नियुक्ति आवंटित जनपद न्यायालय एटा में होनी जिसकी सूचना आपके रजिस्ट्रेशन फार्म में दी गई ई-मेल, मोबाइल नम्बर व स्पीड पोस्ट द्वारा भेजी जा रही है, आप निम्नलिखित दस्तावेजों के साथ दिनांक 25.05.2023 को समय प्रातः 09:30 बजे केन्द्रीय नजारत जनपद न्यायालय, एटा के कार्यालय में उपस्थित हों।

1. मूल अभिलेखों के साथ उन अभिलेखों की कम से कम 3-3 छायाप्रतियां जो स्वतः प्रमाणित हो।
2. 05 अद्यतन पासपोर्ट आकार के फोटो।
3. तीन लिफाफे कम से कम 42/-रुपये की पोस्टेज टिकट लगे स्पीड पोस्ट।
4. उ०प्र० जिला न्यायालय सेवा नियमावली 2013 के अनुपालन में "अपने अन्तिम शिक्षण संस्था से निर्गत किया गया चरित्र प्रमाण पत्र
5. दो सम्मानित व्यक्तियों (राजपत्रित अधिकारी) (जो अभ्यर्थी से सम्बन्धित न हों) द्वारा निर्गत चरित्र प्रमाण पत्र जो 06 माह से अधिक के न हों,
6. अभ्यर्थी का निवास प्रमाण पत्र व जाति प्रमाण पत्र।
7. अभ्यर्थी स्वयं का इस आशय का शपथपत्र भी प्रस्तुत करें कि
 1. मैं भारत का नागरिक हूँ।
 2. मैं अविवाहित/विवाहित हूँ तथा मेरी एक ही जीवित पति/पत्नी हैं
 3. मैं किसी भी असंवैधानिक संस्था से नहीं जुड़ा हूँ।
 4. मेरा भारत की संप्रभुता और अखंडता या राज्य की सुरक्षा के विपरीत हित नहीं है।
 5. मैं भारत सरकार, उत्तर प्रदेश सरकार एवं माननीय उच्च न्यायालय के अधीन किसी सेवा से निष्कासित नहीं किया गया हूँ।
 6. मैं पब्लिक सर्विस कमीशन से प्रतिबंधित नहीं किया गया हूँ।
7. क्या कोई आपराधिक प्रकरण आपके विरुद्ध पंजीकृत है?
8. क्या आपके विरुद्ध कोई आपराधिक विचारण हुआ है, लम्बित है अथवा न्यायालय द्वारा दोषमुक्त हुए या दोषसिद्ध हुए हैं, उत्तर हाँ है तो उसका विस्तृत विवरण प्रस्तुत करें।
9. यदि उपर्युक्त तथ्यों में कोई भी तथ्य छुपाया गया है तो प्रार्थी की नियुक्ति निरस्त कर दी जाए।
10. कभी भी पीठासीन अधिकारी द्वारा अपने कैम्प कार्यालय पर बुलाये जाने पर वह उपस्थित रहेगा तथा किसी भी पीठासीन अधिकारी के आदेश की अवहेलना नहीं करेगा।"

13. We have also occasion to peruse para 7, 8, and 9 of the aforesaid communication. Admittedly, in response to the said communication, the petitioner had prepared an affidavit, which was sworn on 24.5.2023, wherein he has made categorical averment that there is no criminal case registered or pending against him. Thereafter, the petitioner joined his duties at District Court, Etah on 24.05.2023. During the police verification, it was found that Case Crime No.392/2022 under Sections 323, 452, 504, 506 IPC was registered against the petitioner on 14.12.2022 at Police Station Linepar, District Firozabad, wherein the chargesheet was also forwarded to the competent court on 08.01.2023 and cognizance was also taken by the criminal court. During the investigation, notice under Section 41-A CrPC was also served upon the petitioner, which was duly endorsed by the petitioner himself on 8.1.2023.

14. Once during the police verification it was disclosed that the aforesaid Case Crime No.392 of 2022 was registered against the petitioner, the respondent no.3 had issued a show cause notice to the petitioner on 14.07.2023, which was responded by the petitioner on 19.07.2023. For ready reference the notice dated 14.7.2023 is reproduced herein below:-

"आपको इस आशय की नोटिस दी जाती है कि आपके द्वारा आवेदन करते समय उसमें दिये गये कॉलम 'Whether any criminal complaint case have ever been registered against you?' में 'No' अंकित किया गया था तथा अभिलेख सत्यापन के समय प्रस्तुत शपथपत्र दिनांकित 24.05.2023 में कॉलम सं० 08 में किसी न्यायालय में कोई आपराधिक विचारण लंबित न होना, किसी न्यायालय द्वारा दोष सिद्ध न किया जाना और पूर्व में किसी न्यायालय में कोई आपराधिक मुकदमा विचारधीन न रहना भी दर्शाया गया है जबकि पुलिस सत्यापन के बाद रिपोर्ट जनपद न्यायालय एटा में प्राप्त हुई है जिसमें आपके विरुद्ध थाना लाईनपार जिला फिरोजाबाद में अपराध संख्या 392/2022 धारा 323/452/504/506 IPC राज्य बनाम् अनुज उर्फ रामसेवक आदि पंजीकृत है जिसमें वाद विवेचना आरोप पत्र संख्या 04/2023 दिनांक

08.01.2023 को माननीय न्यायालय में प्रेषित किया जा चुका है। ऐसा प्रतीत होता है कि यह कृत्य आपके द्वारा जानबूझकर छिपाया गया है। अतः आप इस सम्बन्ध में अपना स्पष्टीकरण दिनांक 15.07.2023 तक इस आशय का प्रस्तुत करना सुनिश्चित करें कि क्यों न आपकी नियुक्ति निरस्त/रद्द कर दी जाये।"

15. Finally, by the order dated 28.07.2023 the District Judge, Etah had dispensed with the services of the petitioner, which was challenged in the writ petition. Learned Single Judge vide impugned judgement and order dated 22.04.2024 had proceeded to dismiss the writ petition with aforequoted judgment.

16. In view of the aforesaid factual situation, it is apparent that the petitioner was having full knowledge about the criminal case during document verification and he has concealed the material fact while swearing the affidavit at the time of getting employment. Later on at the time of document verification and at the time of verifying his criminal antecedents, it was found that criminal case was pending against him and the same had been concealed. The verification of character and antecedents of an employee are to be ensured by the employer. The character and integrity of a candidate, who is seeking appointment in the District Judgeship must be impeccable and his/ her antecedents should be clean. If a person, whose integrity is doubtful, and his/ her antecedents are not clean, he cannot claim appointment as the same may adversely affect the institution. Moreover, it is well settled that even the acquittal in a criminal case does not automatically entitle the applicant for appointment to the post. Still, it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. Whereas in the present matter, the dispute relates to furnishing false information at the time of appointment. In a case of deliberate suppression of fact with respect to pending criminal case, such false

information by itself will assume significance and an employer may pass appropriate order cancelling the candidature. If the criminal case was pending and known to the candidate at the time of filling up the form or swearing the affidavit, the concealing of the same may have adverse impact in the organisation.

17. Rule 15 of U.P. State District Court Service Rules, 2013 deals with conditions relating to suitability and certificates of characters. According to this Rule, **no person shall be appointed unless the appointing authority is satisfied that he is of good character and is in all respect suitable for appointment to the service.** Every candidate selected for direct recruitment shall furnish to the appointing authority certificates not more than six months prior to the date of selection, by two respectable persons unconnected with his school, college or university, and not related to him, testifying to his character, in addition to the certificate or certificates which may be required to be furnished from the education institution last attended by the candidate. **If any doubt arises regarding the suitability of a candidate for appointment the decision of the High Court shall be final.**

18. At this point, it is pertinent to mention that a candidate seeking an appointment in the District Court judgeship should be of impeccable character and high integrity, and his antecedents should be clean and if a person whose integrity is doubtful or his antecedents are not clean is appointed, that can damage the institution inasmuch as if the Court records are misplaced or tampered which would cause immense prejudice to the litigants and also shake the confidence of the public in the judicial system which would eventually result in serious damage to the prestige of the institution.

19. Hon'ble Supreme Court in the matter of **Commissioner of Police**

vs. Mehar Singh⁵, has observed as under :

"18. The question before this Court is whether the candidature of the respondents who had made a clean breast of their involvement in a criminal case by mentioning this fact in their application/attestation form while applying for a post of constable in Delhi Police; who were provisionally selected subject to verification of their antecedents and who were subsequently acquitted/discharged in the criminal case, could be cancelled by the Screening Committee of the Delhi Police on the ground that they are not found suitable for appointment to the post of constable.

23. A careful perusal of the policy leads us to conclude that the Screening Committee would be entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they are acquitted or discharged if it feels that the acquittal or discharge is on technical grounds or not honourable. The Screening Committee will be within its rights to cancel the candidature of a candidate if it finds that the acquittal is based on some serious flaw in the conduct of the prosecution case or is the result of material witnesses turning hostile. It is only experienced officers of the Screening Committee who will be able to judge whether the acquitted or discharged candidate is likely to revert to similar activities in future with more strength and vigour, if appointed, to the post in a police force. The Screening Committee will have to consider the nature and extent of such person's involvement in the crime and his propensity of becoming a cause for worsening the law and order situation rather than maintaining it. In our opinion, this policy framed by the Delhi Police does not merit any interference from this Court as its object appears to be to ensure that only persons with impeccable character enter the police force.

26. In light of above, we are of the opinion that since the purpose of departmental proceedings is to keep persons, who are guilty of serious misconduct or dereliction of duty or who are guilty of grave cases of moral turpitude, out of the department, if found necessary, because they pollute the department, surely the above principles will apply with more vigour at the point of entry of a person in the police department i.e. at the time of recruitment. If it is found by the Screening Committee that the person against whom a serious case involving moral turpitude is registered is discharged on technical grounds or is acquitted of the same charge but the

5 2013(7) SCC 685

acquittal is not honourable, the Screening Committee would be entitled to cancel his candidature. Stricter norms need to be applied while appointing persons in a disciplinary force because public interest is involved in it."

20. Hon'ble Supreme Court in the matter of **State of M.P. vs. Parvez Khan**⁶, has held as follows:

"13. From the above observations of this Court, it is clear that a candidate to be recruited to the police service must be worthy of Civil Appeal No. of 2014 @ SLP (C) No.36237 of 2012 confidence and must be a person of utmost rectitude and must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was completely exonerated. Persons who are likely to erode the credibility of the police ought not to enter the police force. No doubt the Screening Committee has not been constituted in the case considered by this Court, as rightly pointed out by learned counsel for the Respondent, in the present case, the Superintendent of Police has gone into the matter. The Superintendent of Police is the appointing authority. There is no allegation of mala fides against the person taking the said decision nor the decision is shown to be perverse or irrational. There is no material to show that the appellant was falsely implicated. Basis of impugned judgment is acquittal for want of evidence or discharge based on compounding."

21. The law with regard to the effect and consequence of the acquittal, concealment of criminal case on appointments etc. has been settled in the case of **Avtar Singh v. Union of India and others (supra)**, wherein a three Judges' Bench of the Apex Court decided, as thus:

"38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarize our conclusion thus:

"38.1 Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the

6 2015 (2) SCC 591

employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted :

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2 Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3 If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a 3 case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

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.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a 4 person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him."

22. Hon'ble Apex Court in the case of **Imtiyaz Ahamad Malla (supra)** has considered the import of **Avtar Singh's case** and held as under :

"13. As regards the suppression of relevant information or false information with regard to the criminal prosecution, arrest or pendency of criminal case against the candidate, a three-judge Bench of this Court in Avtar Singh Vs. Union of India and Others has laid down the precise guidelines. Para 38.5 thereof reads as under:

"38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate."

14. In all the above cases, the requirement of integrity and high standard of conduct in police force has been highly emphasised. The High Court in the impugned judgement has also elaborately dealt with each and every aspect of the issues involved, while upholding the order of the Single Bench to the effect that the Director General being the highest functionary in the police hierarchy, was the best judge to consider the suitability of the petitioner for induction into the

police force. The impugned order being just and proper, we are not inclined to interfere with the same in exercise of our jurisdiction under Article 136 of the Constitution of India."

23. Hon'ble Apex Court in the case of **Union of India vs. Methu Meda**⁷, while considering the Avtar Singh's case, has held that even in case truthful declaration regarding concluded trial has been made by the employee, still the employer has the right to consider antecedents and cannot be compelled to appoint the candidate. Paras 18 of the aforesaid judgment is being quoted below:

"18. In view of the above, in the facts of the present case, as per paras 38.3, 38.4.3 and 38.5, it is clear that the employer is having right to consider the suitability of the candidate as per government orders/instructions/rules at the time of taking the decision for induction of the candidate in employment. Acquittal on technical ground in respect of the offences of heinous/serious nature, which is not a clean acquittal, the employer may have a right to consider all relevant facts available as to the antecedents, and may take appropriate decision as to the continuance of the employee. Even in case, truthful declaration regarding concluded trial has been made by the employee, still the employer has the right to consider antecedents and cannot be compelled to appoint the candidate.

24. After considering the **Mehar Singh (supra)**, the Apex Court in **Methu Meda (supra)** has held as under:-

22. As discussed hereinabove, the law is well settled. If a person is acquitted giving him the benefit of doubt, from the charge of an offence involving moral turpitude or because the witnesses turned hostile, it would not automatically entitle him for the employment, that too in disciplined force. The employer is having a right to consider his candidature in terms of the circulars issued by the Screening Committee. The mere disclosure of the offences alleged and the result of the trial is not sufficient....."

25. In all the above cases, the requirement of integrity and high standard of conduct has been highly emphasized. We find that learned Single Judge in the impugned judgement has also elaborately dealt with

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each and every aspect of the issues involved, while affirming the order dated 28.7.2023 passed by the respondent no.3 by which the services of the petitioner have been terminated. The impugned order being just and proper, we are not inclined to interfere with impugned order.

26. In an Intra-Court Special Appeal, no interference is usually warranted unless palpable infirmities or perversities are noticed on a plain reading of the impugned judgment and order. In the facts and circumstances of the instant case, on a plain reading of the impugned judgment and order, we do not notice any such palpable infirmity or perversity. As such, we are not inclined to interfere with the impugned judgment and order.

27. The appeal fails, and is, accordingly, **dismissed** with no order as to the costs.

Order Date :- 1.7.2024
Manish Himwan/SP