



1

W.A. No.3071/2024

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

&

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

WRIT APPEAL No. 3071 of 2024

RAHUL JATAV

Versus

***THE UNION OF INDIA THROUGH SECRETARY AND
OTHERS***

Appearance :

Ms. Amrita Jain - Advocate for the petitioner.

***Shri Jitendra Bharat Mehta - Advocate for the
respondents.***

Reserved on – 08/05/2026

Post on - 25/06/2026



Per: Justice Jai Kumar Pillai :

ORDER

This intra-court Writ Appeal is directed against the impugned order dated 11.11.2024 passed by the learned Single Judge of this Court at Indore in Writ Petition No.4019/2024.

2. By the said impugned order, the learned Single Judge dismissed the writ petition and affirmed the actions of the respondents, thereby upholding the cancellation of the appellant's provisional appointment.

3. The appellant had approached the Writ Court praying to set-aside the termination order dated 22.11.2023, whereby his provisional offer of appointment on the post of Constable (GD) in the Border Security Force (BSF) was abruptly cancelled.

4. Furthermore, the appellant sought the quashing of the subsequent rejection order dated 09.02.2024, by which his representation for reinstatement, filed following his acquittal in the criminal trial, was dismissed by the Authorities.



Facts of the Case

5. The appellant is a citizen of India who participated in the Staff Selection Commission General Duty Exam 2022 and was successfully selected on merit for the post of Constable (GD).

6. Following his selection, the appellant received an appointment letter dated 28.08.2023 issued by the Office of the Inspector General, Central School of Weapons and Tactics, BSF (CSWT, BSF), Indore.

7. Complying with the directions in the appointment letter, the appellant joined the CSWT, BSF at Indore Office on 27.10.2023 to undergo training and complete the requisite enrollment formalities.

8. During the joining and verification formalities, the appellant truthfully and voluntarily disclosed that a criminal case was pending against him under Sections 323, 325, 294, and 34 of the Indian Penal Code, registered vide Crime No.762/2022 at Police Station Kotwali, Shivpuri.

9. On the sole basis of this honest disclosure regarding the pending criminal trial, the respondents issued an order dated 22.11.2023, terminating the appellant's appointment.



4

W.A. No.3071/2024

10. Barely a week later, on 28.11.2023, the Chief Judicial Magistrate, Shivpuri, passed a judgment in Criminal Case No.1152/2022, wherein the prosecution miserably failed to prove the charges, resulting in the acquittal of the appellant.

11. The appellant subsequently submitted a detailed representation on 24.01.2024 to the Senior Officials, bringing the judgment of acquittal to their notice and praying for the restoration of his appointment.

12. Respondent No.3 arbitrarily rejected this representation vide order dated 09.02.2024, reasoning that the acquittal was not "clean" but based on the "benefit of doubt," citing an official circular memo dated 18.07.2019.

Contentions of the Appellant

13. Learned counsel for the appellant submits that the appellant is a young boy of 22 years, and the allegedly frivolous criminal complaint was lodged when he was merely 20 years old.

14. It is fiercely contended that the charges levelled against the appellant under Sections 323, 325, 294, and 34 of the IPC are not heinous in nature. The incident arose out of a trivial, sudden



5

W.A. No.3071/2024

dispute over sounding a motorcycle horn, lacking any premeditation or grave criminal intent.

15. The appellant emphasizes that such acts do not involve moral turpitude, and treating these non-heinous allegations as an absolute bar to public employment is a disproportionate and excessively harsh punishment.

16. It is further argued that the appellant did not suppress any material facts; he honestly furnished the information regarding the pending case when asked by the employer, and has been penalized precisely for his transparency.

17. Relying upon settled jurisprudence, the appellant argues that a candidate should not be deprived of public employment merely because the trial court used the expression "benefit of doubt," as the concept of a "clean" or "honorable" acquittal is unknown to the Code of Criminal Procedure, 1973.

18. The appellant submits that in the criminal trial, the complainant turned completely hostile, and the other witnesses did not whisper a word against the appellant, which wholly dismantles the foundation of the criminal charges.



6

W.A. No.3071/2024

19. Lastly, it is urged that the appellant, hailing from the lowest rung of society, successfully cleared a highly competitive exam, and he cannot be punished for the delay in the conclusion of a trial that ultimately ended in his acquittal.

Contentions of Respondents

20. Learned counsel for the respondents has vehemently opposed the arguments advanced by the appellant and supports the impugned order of learned Writ Court.

Analysis and Conclusion

21. We have heard the learned counsel for the rival parties at length and meticulously perused the record, including the trial court's judgment and the impugned order passed by the learned Single Judge.

22. The scope of judicial review in matters of employment termination and suitability under Article 226 of the Constitution is well-defined. This Court must evaluate whether the administrative decision suffers from arbitrariness, unreasonableness, or misinterpretation of the governing statutory circulars.



7

W.A. No.3071/2024

23. The learned Single Judge dismissed the petition by heavily quoting and relying upon the policy circular dated 01.02.2012 issued by the Ministry of Home Affairs. The relevant text of the circular reads as under :-

“Accordingly, the matter has been considered in this Ministry in consultation with CAPFs, and it has been decided as follows

I. A candidate is required to declare in the application form, whether he has been arrested, prosecuted or convicted by a court for any criminal offence. If a candidate does not disclose the fact of his/her involvement and/or arrest in criminal case(s), complaint case(s), preventive proceedings etc. under IPC or any other Act of the Central or State Government in the application form, during medical examination as well as in the attestation/verification form and the fact subsequently comes to the notice of recruiting authorities/ is found out from the verification report received from the District authorities or otherwise, his candidature/appointment will be cancelled. However, in case the candidate has already been appointed, while cancelling/terminating the appointment, the principle of natural justice shall be followed and opportunity of being heard would be accorded to the candidate.

II. If a candidate does not disclose his/ her-involvement and/or arrest In criminal case(s), complaint case(s), preventive proceedings etc. under IPC or any other Act of the Central, or State



8

W.A. No.3071/2024

Government in the application form but discloses the same during medical examination/PET and on in the attestation/verification form, in writing, the candidature will not be cancelled on this ground alone.

III. The candidate will not be considered for recruitment if:

a) Such involvement/case/arrest is concerned with an offence mentioned in Annexure-A

b)-Such arrest/detention is made under any of the Acts which are concerned with security and integrity of the country, terrorist and disruptive activities, acts against the State, Insurgency, etc.;

c) The candidate has been detained under the National Security Act/Crime Control Act/any similar legislation, and the same is confirmed by the Reviewing Authority;

d) Such involvement/case/arrest is concerned with an offence involving moral turpitude; appeal is pending against such conviction.

Provided that the candidate shall not be barred in the above cases, if only an FIR has been registered/ the case is under investigation and no charges have been framed either on FIR or on the complaint in any Court of Law.

Provided further that the candidate shall not be debarred if he/she has been finally



9

W.A. No.3071/2024

acquitted/discharged by a Court, whether an appeal is pending or not against such acquittal.

Provided further that the candidate shall not be debarred If the proceedings are withdrawn by the Central/State Government

Provided further that the candidate shall not be debarred if he/she has been involved/convicted/concerned with minor offences mentioned in Annexure-B or those mentioned in Chapter VIII & X of Code of Criminal Procedure, 1973.”

24. Upon a point-wise evaluation of the aforementioned circular, it is explicitly clear that the appellant's case does not fall under the penal purview of Clause I. The appellant did not suppress facts; he had already made a clean and honest disclosure of the pending case before the authority.

25. Furthermore, Clause II of the circular provides a specific safeguard, stating that if a candidate discloses their involvement in the attestation/verification form in writing, the candidature will not be cancelled on this ground alone. As the appellant had already specified the case, the strict cancellation mandate cannot be made applicable to him.



10

W.A. No.3071/2024

26. More importantly, Clause III explicitly stipulates guidelines for candidates who are "not considered for recruitment." This implies a pre-appointment stage.

27. In the present factual matrix, Clause III is inapplicable because the appellant was not merely at the consideration stage; he had already been appointed, had joined the force, and was thereafter terminated from service.

28. While this Court is conscious of the fact that the Border Security Force is a disciplined organization, the employer is also obligated to evaluate the severity and nature of the charges levelled against the candidate before concluding that they are permanently unfit for service.

29. A perusal of the trial court's judgment reveals that the alleged incident was a sudden, trivial quarrel over a motorcycle horn. The acts of the appellant and the subsequent charges levelled under Sections 323, 325, and 294 of the IPC are certainly not heinous in nature.

30. The offences alleged do not involve premeditated violence, moral turpitude, or any inherent defect of character that would render the appellant a threat to the discipline of the force.



11

W.A. No.3071/2024

Deeming such non-heinous charges as a perpetual bar to employment is manifestly arbitrary.

31. The sequence of events further reveals that the appellant was fully acquitted by the competent criminal court on 28.11.2023, which was immediately after his abrupt termination on 22.11.2023.

32. Looking into the overall facts, circumstances, the non-heinous nature of the allegations, and the specific sequence of dates, we find that the learned Single Judge fundamentally erred in interpreting the circular dated 01.02.2012.

33. The learned Single Judge incorrectly applied recruitment-stage disqualifications to an already appointed candidate who had made a clean disclosure, while entirely ignoring the trivial nature of the underlying dispute.

34. Consequently, the Writ Appeal is **allowed**. The impugned order dated 11.11.2024 passed by the learned Single Judge in W.P. No. 4019/2024 is hereby **set-aside**.

35. Furthermore, the termination order dated 22.11.2023 and the subsequent rejection order dated 09.02.2024 passed by the



12

W.A. No.3071/2024

respondents are **quashed**. The respondents are directed to reinstate the appellant in service with all consequential benefits.

36. Pending applications, if any, stands closed accordingly.

No order as to costs.

(Subodh Abhyankar)
Judge

(Jai Kumar Pillai)
Judge

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