



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 10th OF JULY, 2026

WRIT PETITION No. 10511 of 2019

SANTOSH SOLANKI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Kailash Chandra Ghildiyal - Senior Advocate assisted by Shri Amit
Garg - Advocate for the petitioner.

Shri Naveen Ahuja - Government Advocate for the respondents/State.
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ORDER

The petitioner has filed the present petition under Article 226 of the
Constitution of India seeking following relief:-

- (i) To call for the relevant records of the case from the respondents.
- (ii) To quash the impugned order/report dated 01.11.2018 of Respondent No. 5 and order dated 15.11.2018 of Respondent No. 4.
- (iii) To command the respondents to treat the petitioner to be qualified to be appointed on the post of Hata (Driver) by granting him all consequential and monetary benefits from the date of removal of petitioner from services.
- (iv) Any other relief to which this Hon'ble Court may deem fit may also be directed to be extended in favour of the petitioner in the interest of justice.
- (v) Costs of this petition be also awarded in favour of the petitioner.

2. The facts of the case in short are that the respondent department invited applications for various posts including the post of Driver through the Madhya Pradesh Professional Examination Board. Being eligible, the petitioner submitted an application for appointment on the post of Constable (Driver), appeared in the written examination and on the basis of his merit, he qualified the written examination and called for Physical Proficiency Test (Annexure P/2). The



petitioner successfully cleared the Physical Proficiency Test and was selected for appointment as Driver in District Burhanpur and he also joined the post vide Annexure P/3.

3. It is averred that before joining the petitioner submitted the prescribed attestation form-Annexure P/4, wherein he fairly disclosed that a criminal case i.e. ST No. 277/2911 was registered against him. However, by mistake in the accompanying affidavit dated 23.04.2018 (Annexure P/5) he could not disclose about the said case. It is submitted that in the said case the petitioner was already acquitted by the competent criminal court on 28.11.2011 (Annexure P/6) as no evidence was found against him.

4. It is averred that the criminal case was registered against the petitioner on account of cognizable offence committed out of a sudden quarrel and the petitioner was unnecessarily implicated. Since there was no evidence against the petitioner, he was acquitted in the said case by the trial court.

5. It is averred that subsequently the department initiated an enquiry against the petitioner for verification of the petitioner's character and called for his explanation. The petitioner submitted a detailed reply reiterating that he had disclosed the criminal case and had already been acquitted.

6. The matter was placed before the Screening Committee. The Committee specifically recorded its finding that the petitioner had not suppressed the information regarding the criminal case. However, the committee opined that the acquittal was not a clean and honourable acquittal and declared the petitioner unsuitable for public service relying upon the judgment of Hon'ble Supreme Court in the case of Commissioner of Police, New Delhi and Another vs. Mehar Singh, (2013) 7 SCC 685.

7. It is submitted that despite the clear finding of the Screening Committee



that there was no suppression of material facts, the respondent authority passed the order dated 15.11.2018 (Annexure P/8) on the basis of Clause 5 of the appointment order, removing the petitioner from service on the incorrect ground that he had suppressed the fact of criminal case in the verification process.

8. Aggrieved by the impugned order, the petitioner submitted a departmental appeal, which was dismissed vide order dated 06.11.2019 (Annexure P/12).

9. It is submitted by the learned senior counsel for the petitioner that the petitioner was appointed vide order dated 29.05.2018 (Annexure P/3) on the post of Constable (GD) after due selection in the written as well as physical proficiency test. the petitioner was given joining.

10. It is submitted that prior to his joining the petitioner has also submitted an attestation form, which contains Clause-Kha in which the petitioner has duly submitted information in regard to offence registered against him at Crime No. 277/2011 in the Police Station Basa, Kushi, District Dhar and also made a disclosure of information of his acquittal vide judgment dated 28.11.2011, however, in Clause 7 of Clause Kha in entries whether such acquittal was by giving benefit of doubt or compromise, the petitioner filled it by writing 'No'. Thereafter, the respondents has got conducted character verification and in the said verification report dated 11.11.2018 (Annexure P/8), the opinion has been formed that the petitioner has not disclosed the correct information with regard to his acquittal. The petitioner has committed an offence which is not expected from a member of the police force and the acquittal was not the honourable acquittal. However, it is also found that the said information was disclosed in the attestation form. On the basis of the said character verification report, the petitioner has been removed from the service vide order dated 15.11.2018 (Annexure P/9).



11. Being aggrieved by the order dated 15.11.2018 (Annexure P/9), the petitioner filed an appeal on 27.12.2018, which was dismissed vide order dated 06.11.2019 (Annexure P/12) without considering the factual aspect of the case and examining the settled legal position.

12. Per contra, learned counsel for the respondents has submitted that though the petitioner was appointed on due selection in the written as well as physical proficiency test, but the said appointment was subject to character verification, medical report and verification of other documents. It is submitted that the order of appointment contains stipulations in Clause-5, therefore, when character verification of the petitioner was done, it was found that the acquittal of the petitioner by the competent criminal court was not a clean acquittal and it was by giving benefit of doubt. Therefore, in the light of the judgment passed by the Apex Court in the case of **Avtar Singh vs. Union of India and others, (2016) 8 SCC 471**, the suitability has been assessed by the respondents authorities on the basis of the information which has been tendered by the petitioner as well as which has not been disclosed and accordingly found that though the petitioner has disclosed registration of offence and acquittal in the said offence, but, the material fact of clean or honourable acquittal has been suppressed. Therefore, on the basis of the guiding principle laid down by the Apex Court, the case of the petitioner has been objectively considered and it was found that the petitioner has though disclosed the fact of acquittal but has wrongly mentioned that it was a clean acquittal in the attestation form as well as in the affidavit, which was asked to be submitted for verification of the character of the petitioner.

13. The respondents have also filed reply contending that the petitioner applied for the post of Constable (Driver) pursuant to the advertisement issued by



the Madhya Pradesh Professional Examination Board. After qualifying the written examination and other prescribed tests, he was appointed and joined the service. However, his appointment was subject to verification of character and antecedents and the conditions contained in the appointment order.

14. It is submitted that Clause 5 of the appointment order specifically provides that if at any stage it is found that the candidate has suppressed any material fact, furnished false information or document or submitted an incorrect affidavit, the appointment is liable to be cancelled.

15. It is submitted that the petitioner himself has admitted that although he had mentioned the fact of registration of a criminal case in the attestation form, but inadvertently he could not disclose the said fact in the affidavit submitted at the time of joining. It is submitted that such omission of fact cannot be treated as a mere inadvertent mistake because the affidavit was an essential document required for appointment. The petitioner was under obligation to make a complete and truthful disclosure.

16. It is submitted that the petitioner was prosecuted for offences punishable under Sections 147, 148, 149, 294, 332, 333, 341, 353 and 506-B of the Indian Penal Code. It is submitted that although the petitioner was acquitted by the Sessions Court, but the said acquittal was not a clean and honourable acquittal, however, it was based on the benefit of doubt due to insufficient evidence. Therefore, such acquittal does not entitle the petitioner to public employment.

17. It is further submitted that the petitioner's case was placed before the duly constituted Screening Committee. The said Committee duly examined the criminal case, the judgment of acquittal, the disclosures of the petitioner and the relevant Government instructions and reached to the conclusion that the petitioner was not suitable for appointment in Government service because the acquittal of



the petitioner was not honourable. It is submitted that the competent authority accepted the recommendation of the Screening Committee and passed the impugned order. The decision was taken by the authority after considering all relevant records.

18. It is submitted that as per the Government Order/Policy dated 24.07.2018, the offences punishable 148 149 323 and 333 of IPC come under the purview of moral turpitude. In view of the said policy, the competent authority has rightly found the petitioner unsuitable for public service.

19. The respondents have denied that the impugned order violates the law laid down by the Hon'ble Supreme Court. On the contrary, the authorities have acted in accordance with the principles laid down by the Hon'ble Supreme Court regarding verification of character and antecedents and assessment of suitability of candidates for Government service.

20. It is submitted that since the competent authority has acted within its jurisdiction, followed the applicable rules and passed a reasoned order, no interference is called for under Article 226 of the Constitution of India and consequently, the petition deserves to be dismissed.

21. Heard learned counsel for the parties and perused the record.

22. On perusal of the judgment 28.11.2011 (Annexure P/6) passed in ST No. 277/2011 by the Sessions Court, it is found that the allegations against the petitioner and about 10-20 other co-accused were that by making unlawful assembly they pelted bricks after election got over. From perusal of the prosecution story mentioned in the judgment, it is found that two accused with name Santosh have been implicated. The Sessions Court has given benefit of doubt to the petitioner on account that nobody has identified the petitioner before the Court that the petitioner was also present in commission of offence.



23. From perusal of the character verification report dated 11.11.2018 (Annexure P/8), it is found that screening committee in the light of the judgments passed by the Hon'ble Apex Court in the cases of Parvez Khan (SLP No. 36237/2012) decided on 01.12.2014, Mehar Singh vs. Commissioner of Police, Delhi Civil Appeal No. 4842/2013 (SLP No. 38886/2012) dated 02.07.2013 and Avtar Singh vs. Union of India has categorically discussed the criminal antecedents, its effect, disclosure and its suppression. It is found that though the petitioner has disclosed the fact of registration of an offence and acquittal by the competent court, but it was found that such acquittal was not the clean acquittal. The petitioner has wrongly mentioned in the form that acquittal was clean acquittal. It is also found that the police force being a disciplined force require exceptional character to maintain law and order of the State. It is expected from a police personnel to behave and conduct himself with high degree of integrity and reputation. It is also found that the offence, which was registered against the petitioner, was not petty offence. However, it is found that the information which was submitted in the attestation form is not correct and therefore, on the basis of the said character verification report by the screening committee, the service of the petitioner has been terminated vide impugned order dated 15.11.2018 (Annexure P/9).

24. In view of the exposition of law expressed by the Hon'ble Apex Court and analysis of the facts of the case at hand, it is found that the petitioner knowing well that the attestation form contains a field, which required disclosure of the information regarding whether the acquittal was based on benefit of doubt or withdrawn, the petitioner filled the form saying 'No', which shows that the petitioner in utter disregard to the question asked has deliberately submitted 'No'



while knowing that acquittal in his case was based on benefit of doubt. This inference has been drawn by this Court not only because of this information submitted by the petitioner but also taking into consideration the affidavit, which has been submitted alongwith the attestation form, which also contains a statement of disclosure that no criminal case has been ever registered or pending against the petitioner. The mistake can be committed at one time, not by repeating it in the affidavit because such statement leads to suppression of fact despite having knowledge that the petitioner was acquitted which was based on benefit of doubt, but, the same has not been disclosed in the attestation form and moreover, in the affidavit it has been stated that no such criminal case has been registered against him. The said affidavit-Annexure P/5 dated 23.04.2018 got notarized by the applicant and submitted before the authority.

25. As discussed hereinabove, the involvement of the petitioner may be doubtful in the commission of offence but the nature of allegation shows that the petitioner in utter disrespect to law and order has participated in brick pelting after the election. Such offence is not against any person but it can be safely said to be against the public at large which definitely creates an image of a person and also shows the character. If a person with such character is appointed then definitely it would be a question mark on a disciplined force in regard to the discipline and reputation of the police force. The Hon'ble Apex Court in the case of **Avtar Singh (Supra)** has framed certain guidelines to deal with such issue of non-disclosure or suppression of fact in regard to criminal antecedent, which may be a reason to reject the candidature of a person considering the suitability by the employer. The relevant part of the guidelines, which are applicable in the present case in hand, this Court finds apposite to reproduce the same, which are as under:

" 38. We have noticed various decisions and tried to explain and



reconcile them as far as possible. In view of 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.

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

38.4.1. 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.

38.4.3. 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 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.

38.10. 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."

The Hon'ble Apex Court in Union Territory, Chandigarh Administration and others vs. Pradeep Kumar and another reported in (2018) 1 SCC 797 has held as under:-

"10. The acquittal in a criminal case is not conclusive of the suitability of the candidates in the post concerned. If a person is acquitted or discharged, it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Unless it is an honourable acquittal, the candidate cannot claim the benefit of the case. What is honourable acquittal, was considered by this Court in *Inspector General of Police v. S. Samuthiram* [*Inspector General of Police v. S. Samuthiram*, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229] , in which this Court held as under: (SCC p. 609, para 24)

"24. The meaning of the expression "honourable acquittal" came up for consideration before this Court in *RBI v. Bhopal Singh Panchal* [*RBI v. Bhopal Singh Panchal*, (1994) 1 SCC 541 : 1994 SCC (L&S) 594] . In that case, this Court has considered the impact of



Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions “honourable acquittal”, “acquitted of blame”, “fully exonerated” are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression “honourably acquitted”. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.”

11. Entering into the police service required a candidate to be of good character, integrity and clean antecedents. In *Commr. of Police v. Mehar Singh* [*Commr. of Police v. Mehar Singh*, (2013) 7 SCC 685 : (2013) 3 SCC (Cri) 669 : (2013) 2 SCC (L&S) 910], the respondent was acquitted based on the compromise. This Court held that even though acquittal was based on compromise, it is still open to the Screening Committee to examine the suitability of the candidate and take a decision. Emphasising upon the importance of character and integrity required for joining police force/discipline force, in *Mehar Singh case* [*Commr. of Police v. Mehar Singh*, (2013) 7 SCC 685 : (2013) 3 SCC (Cri) 669 : (2013) 2 SCC (L&S) 910], this Court held as under: (SCC pp. 698-700 & 702-03, paras 23-25, 33 & 35)

“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 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.

24. We find no substance in the contention that by cancelling the respondents' candidature, the Screening Committee has overreached the judgments of the criminal court. We are aware that the question of co-relation between a criminal case and a departmental enquiry does not directly arise here, but, support can be drawn from the principles laid down by this Court in connection with it because the issue involved is somewhat identical, namely, whether to allow a person with doubtful integrity to work in the department. While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the



proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit. An acquittal based on benefit of doubt would not stand on a par with a clean acquittal on merit after a full-fledged trial, where there is no indication of the witnesses being won over. In *R.P. Kapur v. Union of India* [*R.P. Kapur v. Union of India*, AIR 1964 SC 787] this Court has taken a view that departmental proceedings can proceed even though a person is acquitted when the acquittal is other than honourable.

25. The expression “*honourable acquittal*” was considered by this Court in *S. Samuthiram [Inspector General of Police v. S. Samuthiram]*, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229]. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 IPC and under Section 4 of the Eve-Teasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in *RBI v. Bhopal Singh Panchal* [*RBI v. Bhopal Singh Panchal*, (1994) 1 SCC 541 : 1994 SCC (L&S) 594], where in somewhat similar fact situation, this Court upheld a bank's action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in the departmental proceedings. This Court observed that the expressions “*honourable acquittal*”, “*acquitted of blame*” and “*fully exonerated*” are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression “*honourably acquitted*”. This Court expressed that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

33. So far as respondent Mehar Singh is concerned, his case appears to have been compromised. It was urged that acquittal recorded pursuant to a compromise should not be treated as a disqualification because that will frustrate the purpose of the Legal Services Authorities Act, 1987. We see no merit in this submission. Compromises or settlements have to be encouraged to bring about peaceful and amiable atmosphere in the society by according a quietus to disputes. They have to be encouraged also to reduce arrears of cases and save the litigants from the agony of pending litigation. But these considerations cannot be brought in here. In order to maintain integrity and high standard of police force, the Screening Committee may decline to take cognizance of a compromise, if it appears to it to be dubious. The Screening Committee cannot be faulted for that.

35. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the



society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent times, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by Delhi Police to ensure that persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of the trust reposed in it and must treat all candidates with an even hand.”

(emphasis in original)

The same principle was reiterated in *State of M.P. v. Parvez Khan* [*State of M.P. v. Parvez Khan*, (2015) 2 SCC 591 : (2015) 1 SCC (L&S) 544] .

12. While considering the question of suppression of relevant information or false information in regard to criminal prosecution, arrest or pendency of criminal case(s) against the candidate, in *Avtar Singh v. Union of India* [*Avtar Singh v. Union of India*, (2016) 8 SCC 471 : (2016) 2 SCC (L&S) 425] , the three-Judge Bench of this Court summarised the conclusion in para 38. As per the said decision in para 38.5: (SCC p. 508)

“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.*”

(emphasis supplied)

13. It is thus well settled that acquittal in a criminal case does not automatically entitle him 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. From the observations of this Court in *Mehar Singh [Commr. of Police v. Mehar Singh]*, (2013) 7 SCC 685 : (2013) 3 SCC (Cri) 669 : (2013) 2 SCC (L&S) 910] and *Parvez Khan [State of M.P. v. Parvez Khan]*, (2015) 2 SCC 591 : (2015) 1 SCC (L&S) 544] cases, it is clear that a candidate to be recruited to the police service must be of 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 honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be mala fide. The Screening Committee also must be alive to the importance of the trust reposed in it and must examine the candidate



with utmost character.

17. In a catena of judgments, the importance of integrity and high standard of conduct in police force has been emphasised. As held in *Mehar Singh case* [*Commr. of Police v. Mehar Singh*, (2013) 7 SCC 685 : (2013) 3 SCC (Cri) 669 : (2013) 2 SCC (L&S) 910] , the decision of the Screening Committee must be taken as final unless it is mala fide. In the case in hand, there is nothing to suggest that the decision of the Screening Committee is mala fide. The decision of the Screening Committee that the respondents are not suitable for being appointed to the post of Constable does not call for interference. The Tribunal and the High Court, in our view, erred in setting aside the decision of the Screening Committee and the impugned judgment is liable to be set aside."

In *Rajasthan High Court, Jodhpur vs. Akashdeep Morya and another* reported in (2021) 14 SCC 567 the Hon'ble Apex Court has held as under:-

"32. We would, therefore, think that bearing in mind the age, the nature of the offences in which the first respondent was implicated and the two FIRs, at any rate, in which the matter progressed from the stage of the FIR to the stage of charge-sheet and the manner in which the case ended viz. acquittal based substantially on a compromise and also where the witnesses turned hostile and also the nature of the post for which the first respondent was a candidate, the matter should have been approached differently by the High Court. Here again, we must notice one aspect. The Court in judicial review is not concerned with the decision per se. It is more anxious that the decision-making process is not flawed. Circumstances, where the Court would interfere with the merits of the decision, are far too well settled to require any reiteration. We cannot possibly hold that the decision taken by the appellant through its committee after bearing in mind the decision in *Avtar Singh* [*Avtar Singh v. Union of India*, (2016) 8 SCC 471 : (2016) 2 SCC (L&S) 425] though it has referred only to para 38.1.4, but in the body of which decision, it has borne in mind the principles, which we think would be apposite, should have been interfered with by the High Court. In other words, we would think that in the facts of this case, interference with the decision of the appellant was not warranted."

In *State of Rajasthan and others vs. Chetan Jeff* reported in (2022) 19 SCC 366, the Hon'ble Apex Court has held as under:-

"21. The question is not whether the offences were trivial in nature or not. The question is one of suppression of material fact by the original writ petitioner in respect of his criminal antecedents and making a false statement in the application form. If in the beginning itself, he has suppressed the material fact in respect to his criminal antecedents and in fact made an incorrect statement, how can he be appointed as a Constable. How can he be trusted thereafter in future? How it is expected that thereafter he will perform his duty honestly and with



integrity?

22. Therefore, as such the authorities were justified in rejecting the candidature of the respondent for the post of Constable."

In Union of India and others vs. Shishu Pal alias Shiv Pal reported in 2024

SCC OnLine SC 1769, the Hon'ble Apex Court has held as under:-

"26. Given the aforesaid facts and circumstances of the present case, we are of the firm view that there was no occasion for the learned Single Judge to have interfered in the orders dated 24th June, 2014 passed by the Disciplinary Authority terminating the service of the respondent, duly upheld by the Appellate Authority *vide* order dated 23rd September, 2014. The Appellate Court fell into the same error when it observed that it was incumbent for the appellants to have proven the fact that pendency of the criminal case was within the knowledge of the respondent and the said information had been deliberately withheld by him. The records speak to the contrary and make short shrift of such a plea taken by the respondent. The respondent does not deserve any latitude as it has been established beyond doubt that he was all along aware of the FIR registered against him with Barnhal Police Station, Mainpuri, Uttar Pradesh and the ensuing criminal cases. Not just that, the respondent failed to disclose that he had remained in judicial custody and on moving an application, was released on bail by the trial Court along with other co-accused.

27. In our opinion, the appellants have exercised their discretion as employers in a reasonable manner. On receiving a complaint against the respondent, not only was a show cause notice issued to him, all the relevant information was also furnished. On receiving his categorical denial in reply, the appellants proceeded with disciplinary proceedings against the respondent. The said proceedings were conducted in a fair manner and taken to their logical conclusion. Only thereafter did the Disciplinary Authority pass an order terminating the services of the respondent which order was upheld by the Appellate Authority, for just and valid reasons. Therefore, it cannot be urged that the decision of the appellants to terminate the services of the respondent was unjustified, tainted by any *malafides* or arbitrariness or too harsh."

This Court in **Roop Narayan Sahu vs. State of M.P. and others** reported in 2018 (1) MPLJ 429 has held as under:-

12. At this stage it is condign to state that a three-judge Bench of the Apex Court in *Avtar Singh* (supra) has reviewed the entire case law on the subject, i.e., jurisdiction of an employer to adjudge eligibility and suitability in the matter of selection or appointment in the event of suppression of material information or giving false information in the application form as to conviction, acquittal, arrest or pendency of a criminal case and in the event where the employee has made a declaration truthfully of a concluded trial or for the offence of trivial nature and ultimately resulting into acquittal based on a compromise prior to submission of the application form for appointment. In para 38



of the judgment the Supreme Court has summarised the conclusions regarding nature of offences and their ultimate eventualities in the context of scope of jurisdiction of the authority to deal with these aspects while taking a decision for judging the suitability and eligibility of a candidate for employment on the post.

13. In the present case, the employer has examined the case of the appellant in the light of the Circular dated 5-6-2003 issued by the Department. It was found that the appellant was involved in a case of theft of crown (MUKUT) from a temple, the value of the aforesaid stolen property was more than 40 lacs and the appellant was prosecuted in respect of the offence punishable under sections 452 and 380 of the Penal Code, 1860. The Courts found that even though the stolen property was recovered from the possession of the appellant, but there was some discrepancy in the seizure memo, Ex. P/4; statement of the Investigating Officer (PW-6) and seizure witnesses and, therefore, the appellant was extended the benefit of doubt and he was acquitted. The competent authority evaluated the entire matter in proper perspective after going through the judgments of the trial Court as well as the appellate Court and ascribed the finding that the appellant has been granted benefit of doubt to the discrepancies in the statements of witnesses. However, considering the nature of the case and implication of the appellant and taking note of the fact that he is not acquitted on a clear finding of non-existing of guilt but has acquitted him by extending the benefit of doubt and, therefore, he was not found fit to be considered for appointment in the Police Department in accordance to the requirements of the Circular (Annexure-R/1).

14. Thus, the decision taken by the Department was not mechanical, but it was a conscious decision after taking into consideration the facts and circumstances of the case in proper perspective. Further, if a candidate is to be recruited to the Police service, he must be worthy confidence of an utmost rectitude and must have impeccable character and integrity. The persons having criminal antecedents, would not fall within the ambit of the said category. Even if he is acquitted or discharged, it cannot be presumed that he can be completely exonerated. [See : *State of M.P. v. Parvez Khan*, (2015) 2 SCC 591]

15. In the conspectus of the above discussion, we are of the considered opinion, that there is no illegality or impropriety in the decision taken by the respondents, denying appointment to the appellant-petitioner, the same is in accordance with law expounded in *Avtar Singh* (supra) and the findings ascribed by the learned Single Judge are impeccable and deserve stamp of approval of this Court.

In *Vinod Kumar vs. Union of India, Ministry of Defence*, through its Secretary and another reported in 2022 SCC OnLine MP 2820, the this Court has held as under:-

"5. The post in question herein was Chemical Processor Worker(Semi-skilled) in a defence establishment (Ordnance Factory, Itarsi) and therefore, it cannot be said that the post was not sensitive. The sensitivity involved in a post may not be of such high degree as



involved in a disciplined/uniformed service but since the organization where the petitioner would have been employed was under the Ministry of Defence catering to the requirements of the Armed Forces, the element of sovereignty of the nation comes into being.

6. More so, the judgment of acquittal dated 26.05.2017 as aforesaid, in the considered opinion of this Court, is not honourable and clean. Learned counsel for the petitioner does not dispute that the prosecutrix who was minor supported her police statement by making implicative testimony in the Court. It is only that the Trial Court after indulging in marshalling of evidence came to a finding that initial complaint made by prosecutrix appears to be false. Thus, the prosecution story was not out-rightly rejected or the offence was not disproved.

7. In this view of the matter, the judgment of acquittal is based more on benefit of doubt and therefore is not a clean and honourable acquittal.

8. Reliance of learned counsel for petitioner to the decision of Apex Court in *Mohd. Imran* (supra) is of no avail since in the said case the prosecutrix in a trial involving offence of rape resiled from her earlier statement. Reliance on the Division Bench decision in the case of *Yogesh Choudhary* (supra) is also of no avail since it is based on the decision of Apex Court in the case of *Mohd. Imran* (supra). The case of Division Bench of Bombay High Court, Nagpur Bench rendered in *Ganesh Wasudeo Padhal* (supra) is further of no avail to the petitioner as in the said case the offences involved were punishable under Section 323, 447, 506 read with 34 IPC which were minor in nature."

26. From perusal of the aforesaid yardsticks, it is gathered that the question in the attestation form was specific which was replied in a vague manner by saying 'No' and again it has been repeated by filing an affidavit that no such offence has ever been registered. The authority considering the same has found that such suppression in regard to acquittal does not fall within the category of clean or honourable acquittal and therefore, it is not expected from the member of the disciplined force to show such conduct and character to be a part of the said force.

27. It is not disputed that the partial information has been disclosed by the petitioner, but the information which has been specifically sought in regard to the honourable acquittal has been suppressed. The objective test as required to be done by the authorities in the light of the judgment of the Hon'ble Apex Court passed in the case of *Avtar Singh* (supra) has been done on the basis of the



executive instructions of the State dated 24.07.2018, according to which, the offences, which were registered against the petitioner, fall within the definition of moral turpitude. Therefore, it cannot be said that the authorities have not dwelt upon the issue in an objective manner as required in the light of the judgment passed by the Hon'ble Apex Court in the case of **Avtar Singh (supra)**.

28. Therefore, considering the entirety of the facts and law, the petition fails and is hereby dismissed.

(DEEPAK KHOT)
JUDGE

RAGHVENDRA