

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

SWP No. 1699/2011
IA No. 2489/2011

Pronounced on:- 19th.05.2020

Tejinder Singh

...Petitioner(s)

Through: Mr. M. L. Gupta, Advocate

vs.

State of J&K and others

...Respondent(s)

Through: Mr. Raman Sharma, AAG

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

JUDGMENT

1. Petitioner was initially engaged as a Special Police Officer (for short 'SPO') in District Baramulla vide order dated 12.05.2000. Respondent No. 3 approved the petitioner alongwith others, to be appointed as Constable in terms of order No. 1922 of 2000 dated 28.06.2000 subject to fitness in all respects and clearance from CID.

2. The case of the petitioner is that he was asked to submit relevant documents to SSP Baramulla for his appointment but thereafter he was not allowed to join and no appointment order was issued in his favour. As he was detained vide detention order no. 15/PSA of 1998 dated 14.11.1998 though the said order was quashed in Habeas Corpus Petition No. 104/1998. He was also arrested and released on bail in FIR No. 61/1998 under Section 4 & 5 of the Explosive Substance Act registered with Police Station Ramgarh read with FIR No. 121/2001 registered with Police Station Satwari and a challan in File No. 63/Challan was

presented before the Court of learned 3rd Additional District Judge, Jammu. The said Court vide its judgment dated 01.01.2010 acquitted the petitioner.

3. Petitioner submits that mere pendency of the criminal case should not be a bar to his appointment since he was honourably acquitted. Therefore, he moved a representation to respondent No. 1 for his appointment as constable, as per Government order No. 1922 of 2000 dated 28.06.2000. This representation was decided by the respondents vide order dated 14.10.2011, who rejected the same vide order No. 2272 of 2011 dated 14.07.2011 on the ground that:

“Whereas, later during the course of verification of his character/antecedents, the representee was found involved in case FIR No. 121/2001 under Section 3/4 Explosive Substance Act of P/S Satwariu read with FIR No. 61/98 U/S 3/4 Exp. Sub. Act of P/S Ramgarh. Following his involvement in the said criminal cases, approval to his appointment accorded vide above referred PHQ order was cancelled in terms of PHQ order No. 3996 of 2001 dated 22.11.2001.

whereas, the representee was, however, acquitted later in the above mentioned criminal cases by the Hon’ble Court obviously on technical grounds. Though, the representee was acquitted but this involvement in the said criminal cases was not disputed at any stage. Therefore, the representee with criminal background would not be desirable for Police service given his involvement in heinous offences.

Therefore, having regard to the facts discussed above and that the representee with dubious character would not be

suitable for enrollment in Police department, as such, his representation being non-maintainable, is hereby rejected on merits.”

4. Petitioner seeks quashing of order No. 2292 of 2011 dated 14.07.2011 on the ground, it being unreasonable, since the petitioner has been honourably acquitted, therefore, he cannot be denied an appointment as constable. The respondents, by doing so, have tried to sit over the judgment of the Court of 2nd Additional Sessions Judge, therefore, the same is unsustainable. The impugned order is, violative of Article-14 & 16 as the respondents have given appointment to several surrendered militants and as he is innocent which his acquittal proves, therefore, his representation should have been accepted.
5. Despite numerous opportunities, respondents have failed to file any objection as such, the right to file the same stands closed.
6. Mr. Raman Sharma, learned AAG appearing on behalf of the respondents submits that since the petitioner is to be recruited to the police service as Constable, therefore, the respondents have to consider the suitability of his candidature for the same. A candidate desirous of entering into police service must have impeccable character, integrity and clean antecedent. Merely because he is acquitted, it cannot be inferred that he was falsely involved or he has no criminal antecedents. He further submits that the petitioner was detained for serious charges under public safety act and has faced the trial for the offence under Sections 4 & 5 of the Explosive Substance Act. He submits that it is the respondents, who have to see the suitability of the candidate and mere acquittal in a criminal case would not entitle the petitioner to be

appointed as Constable. He has also placed reliance on the judgment of Apex Court in '**Commissioner of Police, New Delhi and another v. Mehar Singh and another**' reported in 2013 (2) SCC (L&S) 910.

7. The Hon'ble Apex Court in '**Commissioner of Police, New Delhi and another v. Mehar Singh and another**' has held that:

“28. 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 the 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 trust reposed in it and must treat all candidates with even hand.”

8. Similarly in **U. T. of Chandigarh & ors., Vs. Pradeep Kumar & anr.**

decided on 08.01.2018, it is held in Para-13 as under:

“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 and Parvez Khan 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 repose in it and must examine the candidate with utmost character.”

9. Thus, it is for the respondents to consider the suitability of the petitioner as a member of the force. There is no allegation of mala fides against the respondents, in the absence of which, the decision of the respondents to cancel his appointment order cannot be interfered with. This apart, the order of appointment of the petitioner was cancelled vide PHQ NO. 3996 of 2001 dated 22.11.2001 and the same has never been questioned by the petitioner for more than ten long years. It is only after he was acquitted in 2010 that he approached the respondents by representation which was rejected.
10. In view of settled law that it is the decision of the respondents which is final and there being no allegation of mala fide. The order impugned

does not call for any interference. This petition is, thus, without any merit and is accordingly, **dismissed** alongwith connected I.A.

(Sindhu Sharma)
Judge

JAMMU
19th .05.2020
SUNIL-II

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No