

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.54/2020

DISTRICT:- JALNA

Bharatlal S/o. Tulshiram Dhupe,
Age: 32 Years, Occu- Nil,
R/o.: Shani Mandir, Shani Mandir Road,
Wadar Wada Kannad, Tq. Kannad,
Dist. Aurangabad.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Home Department, Mantralaya,
Mumbai-400032.

2. Special Inspector General of Police (SRPF),
Nagpur Range, Near Octroi Naka no.9,
Hingna Road, MIDC, Nagpur-440016.

3. Commandant SRPF GR.3,
The Commandant, SRPF Gut No.3,
Near Mantha Naka, Jalna-431023.

4. The Divisional Commissioner
(President, High Level Committee),
Commissioner Office, Aurangabad.

...RESPONDENTS

APPEARANCE :Shri Kishor D. Khade, Counsel for
Applicant.

:Shri V.G.Pingle, Presenting Officer for the
respondent authorities.

**CORAM : JUSTICE SHRI V.K.JADHAV, VICE CHAIRMAN
AND
SHRI VINAY KARGAONKAR, MEMBER (A)**

**Reserved on : 17-12-2024
Pronounced on : 07-01-2025**

O R D E R**[Per : Justice V.K.Jadhav, VC]**

1. Heard Shri Kishor D. Khade, learned Counsel for the Applicant and Shri V.G.Pingle, learned Presenting Officer for the respondent authorities.
2. Heard finally with consent of parties at the admission stage.
3. By filing this O.A. the applicant is seeking quashing and setting aside the order dated 26-12-2019 issued by respondent no.4, the Divisional Commissioner (President, High Level Committee), Commissioner Office, Aurangabad.
4. Brief facts stated by the applicant giving rise to this Original Application are as follows:

The applicant had applied for the post of Police Constable on 10-02-2016 (Annexure A-1). He was selected on the post of Police Constable at Jalna. Applicant, however, was not allowed to join the services as he was involved in Sessions Case No.150/2014 pending before the Sessions Court at Aurangabad. The Sessions case was decided by the Ad-hoc Additional Sessions Judge, Aurangabad by judgment and order dated 08-03-2019 and the applicant who is accused no.2 in the

said case came to be acquitted from the offences under section 307, 504, 201 r/w. 34 of the Indian Penal Code (IPC). The High Level Screening Committee had taken a decision and accordingly informed the applicant by impugned communication dated 26-12-2019 about cancellation of his selection. Hence, this O.A.

5. Learned Counsel for the applicant submits that the order dated 26-12-2019 passed by respondent no.4 is against the principles of natural justice. The applicant came to be acquitted honorably by the Sessions Court but even then it has been erroneously observed by the High Level Screening Committee that, the applicant came to be acquitted in the aforesaid Sessions case by giving him the benefit of doubt. Learned Counsel submitted that the High Level Screening Committee has not followed the guidelines laid down by the Hon'ble Apex Court in case of **Avtar Singh V/s. Union of India [(2016) 8 SCC 471]**.

6. Learned Counsel for the applicant submits that the allegations in the aforesaid criminal case have been made mainly against accused no.1 in that case who has inflicted the injury on vital part of the victim with the help of sharp weapon like knife. However, the role allegedly played by the applicant is

that, he caught hold the victim at the time of incident. Learned Sessions Judge has found that there is no corroborating evidence to connect the present applicant with the said crime even with the aid of Section 34 of the IPC i.e. common intention.

7. Learned Counsel for the applicant in order to substantiate his case placed his reliance on the following cases:

[i] Avtar Singh V/s. Union of India &Ors. [(2016) 8 SCC 471].

[ii] Commissioner of Police & Ors. V/s. Sandeep Kumar [(2011) 4 SCC 644].

[iii] Manoj V/s. UOI & Ors. [W.P. (C) 11979/2015 decided on 15-07-2016 by High Court of Delhi].

8. Learned Counsel further submits that contrary to the said observations the High Level Screening Committee has recorded in the impugned order/communication that the applicant has been given the benefit of doubt by Sessions Judge and as such he is not entitled to be appointed as a Police Constable. Learned Counsel, therefore, submits that this O.A. deserves to be allowed.

9. Learned P.O. on the basis of affidavit in reply filed on behalf of respondent no.1 to 4 submits that the applicant

had applied for the post of Armed Police Constable in the Police recruitment in the year 2015-2016 on the establishment of State Reserve Police Force, Group-3, Jalna. After the physical and medical test, the applicant was called upon to fill up the attestation form. In the column no.11 (c) of the attestation form, the applicant has mentioned that offence was registered against him in the Police Station, Kannad City in 2014 vide C.R.No.27/2014 for the offences punishable under section 307, 504, 201 r/w. 34 of the IPC. In consequence of the same respondent no.3 has issued a letter dated 26-07-2016 to the Superintendent of Police, Aurangabad in regard to the character verification report of the applicant and the appointment letter stated to be issued only upon the character verification report is received from the concerned office. In response to the said letter Superintendent of Police, Aurangabad (Rural) vide its letter dated 26-08-2016 had intimated to the respondent no.3 about registration of the aforesaid crime against the applicant and case bearing Session Case No.150/2014 is now pending before the Sessions Court wherein the applicant was arraigned as accused no.2. It was also informed that the case is still pending for hearing. Thus, the respondent no.3 has not issued the appointment order to the applicant.

10. Learned P.O. further submits that respondent no.3, however, sent a proposal vide its office letter dated 03-10-2019 for decision to the High Level Screening Committee headed by respondent no.4 i.e. the Divisional Commissioner, Aurangabad as per the guidelines issued by the Home Department, Maharashtra State, Mantralaya Mumbai vide its G.R. dated 19-07-2017 for decision. Thus, the High Level Screening Committee headed by respondent no.4 has taken a decision in the meeting dated 17-12-2019 with regard to the proposal of the character verification referential matter of the recruitment in the police services on the ground of criminal antecedents by referring various judgments in this regard, particularly, judgments in the case of **State of M.P. & Ors. V/s. Parvez Khan** in Civil Appeal No.10613/2014 (arising out of SLP (C) No.36237/2012) the Hon'ble Apex Court has observed that the offence is serious and the applicant has been given the benefit of doubt and as such not entitled to be appointed on the post of Police Constable. Respondent no.4 vide its office letter dated 26-12-2019 has communicated the above decision to respondent no.3. Accordingly, respondent no.3 vide its office letter dated 06-01-2020 communicated to the applicant that his selection for the said recruitment process has been rejected and he is not entitled for the appointment. Learned P.O., therefore,

submits that there is no substance in this O.A. and the same is liable to be dismissed.

11. Learned P.O. in order to substantiate his contentions placed his reliance on the case of **State of M.P. & Ors. V/s. Parvez Khan** (cited supra).

12. We have carefully gone through the G.R. dated 19-07-2017, particularly, paragraph 3.2. It has been specifically stated in paragraph 3.2 that the principle laid down by the Hon'ble Apex Court in the aforesaid Civil Appeal No.10613/2014 (State of M.P. & Ors. V/s. Parvez Khan) decided on 01-12-2014, Delhi Administration & Anr. V/s. Sushil Kumar, Avtar Singh V/s. Union of India & Anr. and other decisions rendered by the Hon'ble Apex Court shall be considered to decide such type of cases.

13. In case of State of M.P. & Ors. V/s. Parvez Khan (cited supra) in paragraph 9 the Hon'ble Apex Court has made the following observations:

"9. It is submitted that in a criminal case, a person cannot be punished in absence of proof beyond reasonable doubt but the standard of proof required for consideration of suitability or otherwise of a candidate was not the same. Discharge on account of compounding of the offence by the victim depended upon the attitude of the parties. The victim may be prepared to settle the matter for any

consideration other than innocence of the accused, but it did not wash off the criminal antecedents of an accused. Entering into police service required a candidate to be of character, integrity and clean antecedents. If a person is acquitted or discharged, it cannot always be inferred that he was falsely involved and he had no criminal antecedents. All that may be inferred is that he has not been proved to be guilty. Reliance has been placed on the decision of this Court in Commissioner of Police vs. Mehar Singh."

14. Further, in the said case Hon'ble Supreme Court has referred to the case of **Commissioner of Police V/s. Mehar Singh [2013 (7) SCC 685]** and also referred the ratio laid down in Mehar Singh's case in paragraph 12. Paragraphs 18, 23 to 30, 33 & 35 of the said Mehar Singh's case are reproduced by the Hon'ble Supreme Court in paragraph 12 and in paragraph 13 and 15 made the following observations:

"12. In Mehar Singh (supra), the question considered by this Court was as follows :

"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."

After considering the rival contentions, the Court held :

"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.

*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* [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* {2013 (1) . SCC 598}. 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* [1994 (1) SCC 541] 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.

26. In light of the above, we are of the opinion that since the purpose of the 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 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.

27. Against the above background, we shall now examine what is the nature of acquittal of the respondents. As per the complaint lodged by Ramji Lal, respondent Mehar Singh and others armed with iron chains, lathis, danda, stones, etc. stopped a bus, rebuked the conductor of the bus as to how he dared to take the fare from one of their associates. Those who intervened were beaten up. They received injuries. The miscreants broke the side windowpanes of the bus by throwing stones. The complainant was also injured. This incident is undoubtedly an incident affecting public order. The assault on the conductor was preplanned and premeditated. The FIR was registered under Sections 143, 341, 323 and 427 IPC. The order dated 30-1-2009 passed by the Additional Chief Judicial Magistrate, Khetri shows that so far as offences under Sections 323, 341 and 427 !PC are concerned, the accused entered into a compromise with the complainant. Hence, the learned Magistrate acquitted respondent Mehar Singh and others of the-said offences. The order further indicates that so far as offence of rioting i.e. offence under Section 147 IPC is concerned, three main witnesses turned hostile. The learned Magistrate, therefore, acquitted all the accused of the said offence. This acquittal can never be described as an acquittal on merits after a full-fledged trial. Respondent Mehar Singh cannot secure entry in the police force by portraying this acquittal as an honourable acquittal. Pertinently, there is no discussion on merits of the case in this order. Respondent Mehar Singh has not been exonerated after evaluation of the evidence.

28. So far as respondent Shani Kumar is concerned, the FIR lodged against him stated that he along with other accused abused and threatened the

complainant's brother. They opened fire at him due to which he sustained bullet injuries. The offences under Sections 307, 504 and 506 IPC were registered against respondent Shani Kumar and others. The order dated 14-5-2010 passed by the Sessions Judge, Muzaffarnagar shows that the complainant and the injured person did not support the prosecution case. They were declared hostile. Hence, the learned Sessions Judge gave the accused the benefit of doubt and acquitted them. This again is not a clean acquittal. The use of firearms in this manner is a serious matter. For entry in the police force, acquittal order based on benefit of doubt in a serious case of this nature is bound to act as an impediment.

29. In this connection, we may usefully refer to *Sushil Kumar* [1996 (11) CC 605]. In that case, the respondent therein had appeared for recruitment as a Constable in Delhi Police Services. He was selected provisionally, but, his selection was subject to verification of character and antecedents by the local police. On verification, it was found that his antecedents were such that his appointment to the post of Constable was not found desirable. Accordingly, his name was rejected. He approached the Tribunal. The Tribunal allowed the application on the ground that since the respondent had been discharged and/or acquitted of the offence punishable under Section 304, Section 324 read with Section 34 and Section 324 IPC, he cannot be denied the right of appointment to the post under the State. This Court disapproved of the Tribunal's view. It was observed that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable for the post under the State. This Court observed that though the candidate was provisionally selected, the appointing authority found it not desirable to appoint him on account of his antecedent record and this view taken by the appointing authority in the background of the case cannot be said to be unwarranted. Whether the respondent was discharged or acquitted of the criminal offences, the same has nothing to do with the question as to whether he should be appointed to the post. What

would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof.

30. It was argued that Sushil Kumar must be distinguished from the facts of the instant case because the respondent therein had concealed the fact that a criminal case was registered against him, whereas, in the instant case there is no concealment. It is not possible for us to accept this submission. The aspect of concealment was not considered in Sushil Kumar at all. This Court only concentrated on the desirability to appoint a person, against whom a criminal case is pending, to a disciplined force. Sushil Kumar cannot be restricted to cases where there is concealment of the fact by a candidate that a criminal case was registered against him. When the point of concealment or otherwise and its effect was not argued before this Court, it cannot be said that in Sushil Kumar this Court wanted to restrict its observations to the cases where there is concealment of facts.

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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.

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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 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 the trust reposed in it and must treat all candidates with an even hand."*

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 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.

14.

15. Having given our thoughtful consideration, we are of the view that the Division Bench of the High Court was not justified in interfering with the order rejecting the claim of the respondent for recruitment to the police service by way of giving him compassionate appointment.”

15. It appears from the aforesaid observations of the Hon'ble Apex Court that the candidate to be recruited to the Police Services must be worthy of 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 credibility of the police ought not to enter the police force.

16. In the instant case, we have carefully gone through the judgment and order dated 08-03-2019 passed by the learned Ad-hoc Additional Sessions Judge, Aurangabad in Sessions Case No.150/2014 (State V/s. Mukesh & Ors.). In this case, we find that applicant is arraigned as accused no.2 for having committed offence punishable under section 307, 504, 201 r/w. 34 of the IPC. Allegedly, the accused no.1 and

the present applicant went to the house of the informant on the date of incident. Accused no.2 (applicant) caught hold of PW-1 and accused no.1 stabbed him with the help of knife. Said incident has taken place in front of the house of the PW-1 informant/injured. There are eye witnesses to the incident. Learned Judge of the Sessions Court has also observed that bringing a knife with him by accused no.1 itself indicates that he had a murderous intention to make an assault on PW-1 by using the said weapon. The prosecution has also examined PW-8 Dr. Sandeep Challani to bring evidence about the injuries. There was a contused lacerated wound over back on left side of chest of PW-1 measuring 10 x 4 x 4 cms. and another contused lacerated wound over his back on para spinal area, measuring 3 x 2 x 2 cms. Further, as per the expert opinion of PW-8 Dr. Sandeep the aforesaid injuries were grievous in nature and close to the heart directly penetrating to chest of PW-1. PW-8 Dr. Sandeep has given emergency treatment to PW-1 and referred him to Ghati Hospital, Aurangabad for further treatment and management.

17. So far as the role played by the applicant and his involvement in the alleged crime is concerned, learned Judge of the Sessions Court has observed that, except the bare statement of PW-1 (who is in fact an injured witness) there is no

other direct or circumstantial evidence. It appears that learned Judge has, therefore, deemed it appropriate to give the benefit of the applicant from the joint liability by way of common intention as prescribed in Section 34 of the IPC.

18. In view of the above, we do not find any fault in the impugned decision taken by the High Level Screening Committee.

19. In case of Commissioner of Police & Ors. V/s. Sandeep Kumar (cited supra) relied upon by the learned Counsel for the applicant, the said Sandeep Kumar had applied for the post of Head Constable (Ministerial) in the year 1999. In the relevant paragraph no.12-A of the application certain information about criminal prosecution was required to be furnished and against that column the said Sandeep Kumar wrote "No". Thus, the show cause notice issued to him why his candidature for the post should not be cancelled. In response to the said show cause notice said Sandeep Kumar has disclosed that later on the said case was compromised and he was acquitted. However, the authorities were not satisfied with his explanation and cancelled his appointment. Consequently, said Sandeep Kumar filed a case before the Central Administrative Tribunal (CAT), which was dismissed on 13-02-

2004. Against the said order, Sandeep Kumar filed Writ Petition which has been allowed by the Hon'ble Delhi High Court. In this context the Hon'ble Supreme Court has observed that the said Sandeep Kumar was 20 years of age at the time of alleged incidence and at that age young people often commit indiscretions, and such indiscretions can often be condoned. Thus, the Hon'ble Supreme Court was of the view that it is necessary to condone the minor indiscretions of young people rather than to brand them as criminals for the rest of their lives.

20. In the instant case, the applicant was more than 25 years of age at the time of alleged incident and he along with accused no.1 had been to the house of the informant (injured) where the incident had taken place. The informant (injured) had specifically taken name of the present applicant as person who has caught hold of him and another accused no.1 has given blow on his chest with the help of knife. It is already discussed in the foregoing paragraphs that the applicant has been given the benefit to the extent of common intention and it seems that the learned Judge of the Sessions Court has taken a cautious view as not to apply the common intention principle to applicant as contemplated in Section 34 of the IPC.

21. In the case of Avtar Singh (cited supra) relied upon by the learned Counsel for the applicant wherein Sandeep Kumar's case (supra) is also referred along with various cases. In paragraph 38 the Hon'ble Supreme Court summarized the conclusion as under:

"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 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 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 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. So far as the case in hand is concerned, above paragraph 38.4.3. is applicable. We have no hesitation to hold that High Level Screening Committee has considered all the relevant facts available as to antecedents and taken the appropriate decision with regard to the candidature of the applicant. We find no reason to interfere in it. There is no substance in the O.A. and the same is liable to be dismissed. Hence, the following order:

ORDER

- [i] Original Application is hereby dismissed.
- [ii] In the circumstances, there shall be no order as to costs.
- [iii] Original Application is accordingly disposed of.

(VINAY KARGAONKAR)
MEMBER (A)
Place : Aurangabad
Date : 07-01-2025.

(V. K. JADHAV)
VICE CHAIRMAN