$~173 to 180

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 6191/2025

SRIKANTA GORAIN .....Petitioner
Through: Mr. Mandeep Baisala and Mr. Kavesh Bidhuri, Advs.

versus

UNION OF INDIA & ANR. .....Respondents
Through: Mr. Ashok Kashyap, SPC and Mr. Kabir Hazarika, GP

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\+ W.P.(C) 6238/2025

BIKRAMJIT MONDAL .....Petitioner
Through: Mr. Mandeep Baisala, Mr. Shobhit Anand, Mr. Kavesh Bidhuri and Mr. Atal Singh, Advs.

versus

UNION OF INDIA & ANR. .....Respondents
Through: Mr. Jivesh Kumar Tiwari, CGSC with Ms. Samiksha, Adv.

175

\+ W.P.(C) 6434/2025

KULDEEP KUMAR .....Petitioner
Through: Mr. Mandeep Baisala, Mr. Shobhit Anand and Mr. Atal Singh, Advs.

versus

UNION OF INDIA & ANR. .....Respondents
Through: Mr. Sandeep Tyagi, SPC with Mr. Surrender Kumar, Adv.

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\+ W.P.(C) 6465/2025

SUVOJIT SARKAR .....Petitioner

Through: Mr. Mandeep Baisala, Mr. Shobhit Anand and Mr. Atal Singh, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Devashish Bhaduria, SPC.

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\+ W.P.(C) 6959/2025

ANKUSH NANDKISHOR RAUT .....Petitioner

Through: Mr. Mandeep Baisala, Mr. Shobhit Anand and Mr. Atal Singh, Advs.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Ravi Kant Srivastava, SPC with Mr. Robert Laishram, Adv.

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\+ W.P.(C) 6970/2025

AADITAY KUMAR .....Petitioner

Through: Mr. Mandeep Baisala, Mr. Shobhit Anand, Mr. Kavesh Bidhuri and Mr. Atal Singh, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Premtosh K. Mishra, CGSC with Mr. Siddharth Bajaj, Mr. Prarabdh Tiwari, Advocates with Mr. Prahlad Petal (Inspector) and Mr. Atul Sen (sub inspector).

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\+ W.P.(C) 6972/2025

KAWALE RAHUL DATTA .....Petitioner

Through: Mr. Mandeep Baisala, Mr. Shobhit Anand and Mr. Atal Singh, Advs.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr P S Singh, CGSC, Ms. Annu Singh and Mr. Kumar Saurabh, Adv.

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\+ W.P.(C) 7858/2025

SORAB DAS .....Petitioner

Through: Mr. Mandeep Baisala, Mr. Shobhit Anand, Mr. Kavesh Bidhuri and Mr. Atal Singh, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Subhash Tanwar, SPC with Mr. Naveen (GP), Mr. Sandeep Mishra, Mr. Harshit Deshwal, Advocates, Mr. Prahalad Devenda, (Inspector)

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 14.10.2025

C. HARI SHANKAR, J.

The Issue

1. The petitioners in these writ petitions were appointed as Constable (General Duty) in the Central Industrial Security Force[1]. Their appointments were subsequently cancelled, and they were declared unsuitable for recruitment as Constable (GD), on the ground of their prior arraignment in criminal proceedings which had, however, culminated in their acquittal. The legality of this decision is under challenge.

The Legal Backdrop

A. Ministry of Home Affairs[2] Policy Guidelines dated 1 February 2012[3] and CISF Circular 08/2018 dated 18 July 2018

2. The dispute, in all these writ petitions, revolves around these guidelines, of which the latter was issued following the judgment of the Supreme Court in ***Avtar Singh v Union of India***[4]. It is appropriate, therefore, to reproduce, at the very outset, the relevant clauses of these instructions, thus:

MHA Policy Guidelines dated 1 February 2012

"Accordingly, the matter has been considered in this Ministry in

[1] "CISF" hereinafter
[2] MHA
[3] "the 2012 Guidelines" hereinafter
[4] **(2016) 8 SCC 471**

consultation with CAPFs and it has been decided as follows:-

*****

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;

e) He/she has been convicted by a Court in any case whether or not an 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 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** those mentioned in Chapter VIII & X of Code of Criminal Procedure, 1973.

*****

V. Notwithstanding the provisions of 3(III) above, such candidates against whom chargesheet in a criminal case has been filed in the court and the charges fall in the category

of serious offences or moral turpitude, though later on acquitted by extending benefit of doubt or acquitted for the reasons that the witness have turned hostile due to fear of reprisal by the accused person(s), he/she will generally not be considered suitable for appointment in the CAPF. The details of crimes which are serious offences or involve moral turpitude are at Annexure 'A'. However, cases in which the criminal court, while acquitting, has categorically mentioned that the criminal case would not be a bar on appointment in Government Services, the candidate shall be considered for appointment in the concerned CAPF."

CISF Circular 08/2018 dated 18 July 2018

"Directorate General
Central Industrial Security Force
(Ministry of Home Affairs)

Block No 13, CGO Complex
Lodhi Road, New Delhi-03

No V-14014/Misc/Cir./L&R/2018/871 Dated. 18 July, 2018

CISF Circular No. 08/2018

Subject: Examination of the cases of candidates having criminal Antecedents for appointment in CISE by Standing Screening Committee – Reg.

In order to examine the cases of candidates having criminal antecedents, Ministry of Home Affairs has circulated comprehensive policy guidelines for appointment in CAPFs vide MHA UO No. I-45020/6/2010-Pers-II dated 01.02.2012. This policy was framed in pursuance to the directions of Delhi High Court in WP No 2930/2011 filed by **Het Ram Meena Vs UOI and others**. The policy incorporates Annexure-A mentioning therein serious offences and offences of moral turpitude and Annexure- B laying down certain minor offences which are required to be considered by the Standing Screening Committee appointed for scrutiny of such cases to recommend their suitability for appointment.

II Besides, Supreme Court of India vide JO dated 21.07.2016 in SLP No 20525/2011 titled Avtar Singh Vs UOI and others has also laid down exhaustive guidelines on the action to be taken by the employer while considering such cases particularly cases of

suppression of facts relating to criminal antecedents Special reference has been made in the Judgment to take Govt orders/instructions/rules into consideration while examining such cases.

*****

IV To ensure holistic and proper examination of the cases, following suggestions/instructions are issued for the Standing Screening Committees.

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3. A check list considering various points/issues has also been prepared to facilitate the task assigned to Standing Screening Committee during examination of the cases.

(a) Whether the candidate has suppressed the facts about criminal case(s)/antecedents or not

(b) Number of criminal cases regist5ered against the candidate

(c) Copy of FIR, Charge Sheet/Final Report and Judgement Order (The Judgment Order should correspond to the FIR/Case)

(d) Present status of the criminal case(s)

(e) Documents should be in English/Hindi language for proper examination. If any documents is in another language, translated copies be made available

(f) Age of the candidate on the date of alleged offence (whether he/she is a juvenile)

(g) Nature of offence whether it falls under Annexure-A of MHA policy/Offences under special Acts/Moral Turpitude or Annexure-B

(h) Nature of acquittal – whether honourable or on technical grounds like by extending benefits of doubt, compromise, witness turning hostile etc

(i) Facts and circumstances of the case and the relation, if any, between the disputed parties.

(j) Specific role of the candidate in the criminal case indicated the FIR/FR/Judgment Order

(k) While examining any case in compliance of the documents of the Hon'ble Court, specific mention/reference has to be made in the recommendations on the directions issued by the Court.

4. Besides above, the Committee invariably has to refer to relevant guidelines mentioned in the Judgment Order of Apex Court in Avtar Singh case.

*****

VI These instructions are supplementary to the existing guidelines already issued on the subject.

B. The decisions in ***Avtar Singh*** and ***Ravindra Kumar v State of UP***[5]

3. Inasmuch as CISF Circular 08/2018 is based on the judgment of the Supreme Court in ***Avtar Singh***, it would be appropriate to reproduce, here, para 38 of the said decision, which contains the guidelines laid down by the Court:

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

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

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

[5] **(2024) 5 SCC 264**

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 recourses 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."

4. In its subsequent decision in ***Ravindra Kumar***, the Supreme Court has noted the decision in ***Avtar Singh*** and has further clarified the legal position thus:

> "22**.** The law on this issue is settled by a three-Judge Bench of this Court in ***Avtar Singh***. Paras 34, 35, 36 and 38, which sets out the conclusions, are extracted hereinbelow :
>
> > "34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon *objective criteria on due consideration of all relevant aspects*.
> >
> > 35. Suppression of "material" information presupposes that what is suppressed that "matters" not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. *Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases*.
> >
> > 36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.
> >
> > *****
> >
> > 38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

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

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

(emphasis supplied)

23. As would be clear from ***Avtar Singh*** , it has been clearly laid down that though a person who has suppressed the material information cannot claim unfettered right for appointment, he or she has a right not to be dealt with arbitrarily. The exercise of power has to be in a reasonable manner with objectivity and having

due regard to the facts. In short, the ultimate action should be based upon objective criteria after due consideration of all relevant aspects.

24. *Avtar Singh* also noticed the judgment in ***Commr. of Police v Sandeep Kumar***[6]. In ***Sandeep Kumar***, this Court set out the story of the character "Jean Valjean" in Victor Hugo's novel Les Miserables, where the character was branded as a thief for stealing a loaf of bread for his hungry family. It also discussed the classic judgment of Lord Denning in ***Morris* v *Crown Office***[7] and concluded as follows :

> "10. … In our opinion, we should display the same wisdom as displayed by Lord Denning.
>
> 11. As already observed above, youth often commits indiscretions, which are often condoned.
>
> 12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter."

25. Thereafter, in ***Avtar Singh*** dealing **with *Sandeep Kumar***, this Court observed as under :

> "24. … This Court has observed that suppression related to a case when the age of Sandeep Kumar was about 20 years. He was young and at such age people often commit indiscretions and such indiscretions may often be condoned. The modern approach should be to reform a person instead of branding him a criminal all his life. In ***Morris v Crown Office***, the observations made were that young people are no ordinary criminals. There is no violence, dishonesty or vice in them. They were trying to preserve the Welsh language. Though they have done wrong but we must show mercy on them and they were permitted to go back to their studies, to their parents and continue the good course."

[6] **(2011) 4 SCC 644**
[7] **(1970) 2 QB 114**

C. The decision in ***Manish Saini v GNCTD***[8]

5. A Division Bench of this Court has had an occasion, in ***Manish Saini v GNCTD*** to examine the law in this regard. We may reproduce, for ready reference, paras 15, 25 to 27 and 37 of the said decision, thus:

> *"The law*
>
> 15. The case of the petitioner, for appointment, was indisputably required to be considered in the light of SO No. 398 of 2018. The validity or legality of the said SO is not in challenge. The petitioner is, therefore, bound by it. From the SO, the following principles emerge:
>
> (i) A show-cause notice, proposing cancellation of the candidature of the candidates seeking appointment to the Delhi Police could be issued even in a case of acquittal or discharge of the candidate in the criminal case.
>
> (ii) Acquittal in the criminal case did not automatically entitled the provisionally selected candidates for appointment to the Delhi Police.
>
> (iii) The Screening Committee, in arriving at a decision as to whether the candidate deserved to be appointed, had to bear in mind:
>
> (a) the antecedents of the candidate;
>
> (b) the suitability of the candidate for appointment;
>
> (c) whether the candidate was acquitted honourably or on "compromise/benefit of doubt/witnesses turning hostile"; and
>
> (d) the nature and gravity of the charge against the candidate.
>
> It is important to note that the issue of whether the acquittal of the candidate was, or was not, honourable, thus assumes importance in the backdrop of the SO No. 398 of 2018. It is also important to note that SO No. 398 of 2018 contradistinguishes an honourable acquittal from an acquittal on compromise, benefit of doubt, or because the witnesses turned hostile.
>
> *****

[8] **315 (2024) DLT 707**

The fallout

25. The litmus test that seems to emerge, from a reading of the above authorities, is the basis of the acquittal of the candidate in the criminal case. In the case of candidates seeking entry into police services, or other services dealing with law and order and security, one cannot really distinguish between offence and offence on the basis of "severity". All offences which involve moral turpitude, or criminal acts or intimidation, must fall under the same umbrella. For a prospective police person, a taint of robbery or thievery is as damning as one of murder.

26. To repeat, the litmus test is the basis of the acquittal of the candidate concerned. The overwhelming view of the Supreme Court, in its recent decisions, cited supra, appears to be that it is only where there is honourable acquittal of the candidate, in that the candidate is found innocent of the crime of which he is accused by the trial court, that a right to appointment may be said to exist. Where the acquittal is because the prosecution has not been able to garner the requisite evidence or, more particularly, where witnesses have turned hostile, the candidate cannot claim a right to appointment based on his acquittal in the criminal case. It matters little whether the criminal court terms the acquittal to be on "benefit of doubt" or because the prosecution has failed to prove the case "beyond reasonable doubt". There is, clearly, a qualitative difference between holding that the accused as innocent of the charges against him, and that the charges against the accused have not been proved beyond reasonable doubt. The Supreme Court has treated, in ***Love Kush Meena case***[9], an acquittal on the ground that the charges have not been proved against the accused beyond reasonable doubt as equivalent to an acquittal on the basis of the benefit of doubt.

27. In the ultimate eventuate, the court is required to examine, for itself, the basis on which the criminal court concerned has acquitted the candidate, rather than proceed merely on the basis of the terminology used by the court concerned.

*****

37. Were the judgment of the trial court, which acquits the candidate, to contain even a shred of doubt regarding his innocence, or display any lack of equivocation regarding the innocence of the candidate, then, perhaps, the employer may be justified in refusing to appoint him. In a case such as the present, where the learned ASJ has, without using so many words,

[9] **State of Rajasthan v Love Kush Meena, (2021) 8 SCC 774**

> practically regarded the case as planted, and has expressed complete faith in the case against the petitioner being unbelievable on several counts, the only conclusion is that there is no cloud whatsoever on the petitioner's antecedents."

6. It is in the above legal backdrop that these writ petitions fall for adjudication.

W.P.(C) 6191/2025 [*Srikanta Gorain v Union of India*]

Facts

7. This writ petition is directed against communications dated 7 April 2025, 10 April 2025 and 22 April 2025, whereby the petitioner, who had been appointed in the Central Industrial Security Force[10] by a formal offer of appointment, was subsequently declared unsuitable to be recruited to the post of Constable (GD) therein.

8. The reason for the said decision of the respondents is to be found in the third of the aforesaid orders, dated 22 April 2025.

9. We have heard Mr. Mandeep Baisala, learned Counsel for the petitioner and Mr. Ashok Kashyap, learned SPC with Mr. Kabir Hazarika, learned GP for the respondents at some length.

10. From a reading of the order dated 22 April 2025, it becomes apparent that the initial proposal to consider the petitioner's suitability for induction into the CISF was predicated on two FIRs which had

[10] "CISF" hereinafter

been registered against him. FIR 67/2019 was registered at Police Station Santuri, District Purulia, West Bengal under Sections 341, 323, 325, 354-B, 506 and 34 of the IPC[11] to which during the course of the investigation, Sections 376 and 511 were also added. The second FIR 39/2020 was registered on 9 July 2020, also at Police Station Santuri, District Parulia, West Bengal under Sections 354-C, 292-A, 500 and 509 of the IPC.

11. The criminal proceedings which followed on the aforesaid FIRs culminated in judgment dated 8 January 2025, passed by the learned Additional District and Sessions Judge, FTC-1, Parulia[12] in the case of FIR 67/2019 and the judgment dated 16 December 2021, passed by the Judicial Magistrate First Class, 1st Court, Raghunathpur, Parulia in the case of FIR 39/2020.

12. The order dated 22 April 2025 notes the fact of registration of the aforesaid FIRs and proceeds, in paras 3, 9 and 10[13], thus:

> "03. WHEREAS based on the above facts, the case was referred to the 19th CISF Standing Screening Committee (SSC)(36th Sitting) for assessment of the candidate suitability, as per the provisions outlined in the Ministry of Home Affairs (MHA) Policy Guidelines dated 01.02.2012 and directions issued by the Hon'ble High Court of Delhi in its judgment dated 11.02.2025.
>
> Upon examination, the Committee observed as follows –
>
> **<u>1st offence:</u>**
>
> - Sections 376 and 511 were added after investigation.
> - Sections 325, 354B & 376 (A FIR lodged against the

[11] Indian Penal Code, 1860
[12] "learned ADSJ" hereinafter
[13] The order is itself incorrectly numbered as para 9 follows para 3

individual are serious offence covered in Annexure – "A" of the Policy Guidelines issued by MHA vide UO Note Dated 01.02.2012.

- Charge sheet filed against the candidate, and the charges fall in the category of serious offence and moral turpitude.

- Acquitted by extending benefits of doubt. It is not a case of clean acquittal.

- Para 2(V) of the MHA Policy Guidelines dated 01.02.2012 states that "*Notwithstanding the provision of 2(III) above, such candidates against whom chargesheet in criminal case has been filed in the court and the charges fall in the category of serious offences or moral turpitude, through later on acquitted by extending benefit of doubt or acquitted for the reasons that the witness have turned hostile due to fear of reprisal by the accused person(s), he/she will generally not be considered suitable for appointment in the CAPF".*

2nd offence-

- Section 354 of IPC firmed against the individual is covered in Annexure – "A" of the Policy issued by MHA vide UO Note dated 01.02.2012.

- The candidate has been finally acquitted by the Hon'ble Court.

- Para 2(III) proviso 2 of the MHA Policy Guidelines dated 01.02.2012 states that "*Provided further that the candidate shall not be debarred if he/she has been finally acquitted/discharged by a Court, whether an appeal is pending or not against such acquittal.*"

- Para 2 of the MHA OM dated 18.07.2019 regarding guidelines formulated in Apex Court Order in Avtar Singh's Case at Para 30(3) states that "*The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision."*

09. THERFORE, the Committee opines that the candidate is "UNSUITABLE" for employment in CISF vide CISF FHQrs, New Delhi, order No.-E-32017(1)/19th (36th)SSC/Rectt-I/2025/889 dated 07th April 2025.

10. The candidate should acknowledge receipt of this order."

13. From a bare reading of the aforesaid order, it is clear that the petitioner's declaration as unsuitable for employment in the CISF is predicated on the proceedings relating to FIR 67/2019 and the judgment dated 8 January 2025 which came to be passed by the learned ADSJ, therein.

14. The judgment dated 8 January 2025 of the learned ADSJ in the criminal proceedings following FIR 67/2019 contained, *inter alia*, the following findings:

> "(xi) Therefore, in conclusion, on going through the entire material on record, *I am of the clear opinion that the evidence of the complainant and victim girl are unreliable and untrustworthy inasmuch as they are not credible witness. Their evidence bristles with contradictions and full of improbabilities.*
>
> (xii) So, considering the evidence on record it is abundantly clear that *there is practically no reliable evidence on record in support of the prosecution case.*
>
> (xiii) Therefore, the prosecution case creates doubt about the charges under Sections 341/323/325/34 of I.P.C against the accused persons namely Gita Gorai, Prasanta Char and Samsuddin Khan, under Sections 354/506/376/511 I.P.C against the accused Srikanta Gorai and under Sections 341/323/325/376/511/34 I.P.C. against the accused person namely Lakhikanta Gorai.
>
> (xiv) Therefore, in the background of the above findings and observations I have no doubt in my mind to conclude that *the evidence adduced by the prosecution side in support of the charges labeled against the accused persons do not at all inspire any confidence in the mind of this Court for holding the same to have any merit* and as such the accused persons are surely entitled to an order of acquittal at least on the ground of benefit of doubt.
>
> In the end prosecution case fails.
>
> Hence, it is,
>
> **ORDERED**

that the prosecution has failed to prove the acquisition under sections 341/323/325/34 of I.P.C. against the accused persons, namely, Gita Gorai, Prasanta Char, Samsuddin Khan; under Sections 354B/506/376/511 I.P.C against the accused Srikanta Gorai and under Sections 341/323/325/376/511/34 I.P.C against the accused person namely Lakhikanta Gorai.

So, the accused person namely Gita Gorai, Prasanta Char, Samsuddin Khan are found not guilty under Sections 341/323/325/34 of the IPC; accused Srikanta Gorai is found not guilty under Sections 3548/506/376/511 I.P.C and accused Lakhikanta Gorai is found not guilty under Sections 341/323/325/376/511/34 1.P.C and they are acquitted from the case under Section 235(1) of Cr.P.C.

They are discharged from their respective bail bonds.

The victim has a right to prefer appeal under the proviso to section 372 of Cr.P.C. against this Judgment and if required may seek free legal assistance from the appropriate legal service authority to prefer and prosecute such appeal.

Let a copy of this judgment be forwarded to the District Magistrate, Purulia and to the Secretary, DLSA, Purulia for due intimation to the victim [As defined under section 2(wa) of the Code of Criminal Procedure] of her right to prefer an appeal against this judgment under proviso to Section 372 of the Code of Criminal Procedure and if necessary, to avail free legal assistance through the legal services authority concerned to prefer and prosecute such appeal."

Analysis

A. Applying the 2012 Guidelines

15. The structure of the 2012 Guidelines is peculiar.

16. Para 2 (III) first disentitles candidates from being considered from recruitment if the case falls within one of the circumstances envisaged in clauses (a) to (e) thereunder. Clause (a) deals with involvement/case/arrest in connection with an offence mentioned in

Annexure A.

17. Annexure-A to the Guidelines includes Sections 354 and 376 of the IPC, under which the petitioner was arraigned in the criminal proceedings.

18. However, the bar to recruitment envisaged at the initial part of Para 2 (III) is subject to the provisos that follow.

19. The second proviso in Para 2(III) specifically ordains that, if the candidate has been finally acquitted or discharged by a Court, irrespective of whether an appeal against such acquittal or discharge is pending, the candidate shall not be debarred. This proviso does not state anything regarding the *nature* of the acquittal or discharge.

20. As such, facially, it would cover *all* cases of acquittal or discharge by the Court.

21. Inasmuch as the petitioner was acquitted by the learned Judicial Magistrate by order dated 16 December 2021, albeit under Section 248(1) of the Cr.PC, his case would be covered by the second proviso in para 2 (III) of the 2012 Guidelines which would, therefore, immunises him from the effect of clause (a) prior thereto.

22. The Guidelines, however, do not end there. Para 2(V) commences with a *non obstante* clause, which gives it overriding

effect over Para 2(III)[14].

23. If a case falls within Para 2(V), therefore, the candidate would not be entitled to the benefit of Para 2 (III), which would include the second proviso thereto.

24. Para 2(V) excepts, from the scope of Para 2(III), cases where the chargesheet against the candidate involves one of the offences in the Annexure-A, and where the candidate has been acquitted by extending benefit of doubt or because the witness has turned hostile due to fear or reprisal by the accused persons.

25. It is also a settled proposition that in examining the nature of the acquittal by the learned Criminal Court, the Court is not to be guided by words used in the judgment but by the actual content of the judgment. As such, the Court is not to be unduly influenced by the use of the expression "benefit of doubt" or other similar expressions.[15]

26. The present case is not one in which the acquittal of the petitioner by the learned Judicial Magistrate is either on benefit of doubt or because the witness has turned hostile due to fear of reprisal by the accused person.

27. As such, Para 2(V) of the circular dated 1 February 2012 does not apply.

[14] Wrongly stated as Para 3 (reply in the circular)
[15] Refer **Ram Lal v State of Rajasthan, (2024) 1 SCC 175 [para 28]**

28. Resultantly, Para 2(III) of the circular would apply.

29. This would also entitle, consequently, the petitioner to the benefit of the second proviso of the Para 2 (III).

30. The second proviso to para 2 (III) of the 2012 Guidelines would clearly entitle the petitioner to be reinstated, consequent on his acquittal in the criminal proceedings. The proviso is worded in absolute terms, and is not dependent on whether the acquittal is honourable or on benefit of doubt.

B. Applying CISF Circular 08/2018

31. The 2012 Guidelines were followed by CISF Circular 08/2018, para 3 of which makes the nature of the offence and the natural of acquittal – whether it was honourable or on technical grounds such as benefit of doubt, compromise, or hostility of witnesses, relevant. Sub-paras 38.3 to 38.4.3 of ***Avtar Singh***, too, make these considerations relevant.

32. A holistic reading of the order of the learned ADSJ makes it clear that the acquittal of the petitioner, in the criminal proceedings, was clean and honourable. The learned ADSJ has found no evidence whatsoever to sustain the allegations against the petitioner. Even the evidence of the prosecutrix in the criminal proceedings was found to be unworthy of credence.

33. This is clear, *inter alia*, from the finding, in para (xii), extracted

supra, of the learned ADSJ that "there is practically no reliable evidence on record in support of the prosecution case".

34. As such, though the learned ADSJ has used the expression "at least on the ground of benefit of doubt", in sup-para (xiv) *supra*, we cannot be unduly guided by the said expression. In fact, the very same para records the finding of the learned ADSJ that he had "no doubt in his mind to conclude that the evidence adduced by the prosecution in support of the charges levelled against the accused persons" did not inspire any confidence.

35. The acquittal of the petitioner, in these circumstances, cannot but be treated as honourable.

C. The Sequitur

36. That being so, in the light of the 2012 Guidelines, CISF Circular 08/2018, and the judicial decisions cited *supra*, the very basis of the impugned decision, which finds the petitioner unsuitable for recruitment in the CISF on the ground that his acquittal in the criminal proceedings following FIR 67/2019 was on benefit of doubt, is not sustainable in law or on facts.

37. As such, the respondent's decision that the petitioner was unsuitable for induction into the CISF is not sustainable. It is accordingly quashed and set aside.

38. The offer of appointment dated 17 December 2024 would stand

revived.

39. The petitioner would be entitled to be appointed to the CISF in pursuance to the said order of appointment.

40. He shall also be entitled to be treated at par with other candidates who were appointed following the selection in which the petitioner participated. He shall also be entitled to consequential benefits by way of seniority as well as fixation of pay but shall not be entitled to any back wages. The petitioner shall also be permitted to join the training which is stated to have already commenced.

41. The petition is accordingly allowed.

WP (C) 6238/2025 [*Bikramjit Mondal v Union of India*]

Facts

42. Following a notification which was issued in 2023 for recruitment to the post of Constable (GD) in the Central Armed Police Forces[16], in response to which the petitioner applied, he appeared in the examination and was selected as Constable (GD) in the Central Industrial Security Force[17] *vide* selection letter dated 18 December 2024.

43. During this period on 5 October 2023, FIR No. 617 of 2023 was

[16] "CAPFs" hereinafter
[17] "CISF" hereinafter

registered against petitioner at PS Baduria, North 24 Parganas, West Bengal under Sections 447, 323, 307, 325 and 34 of the Indian Penal Code[18].

44. Charge-sheet, pursuant to the registration of the FIR was filed on 31 October 2023, but did not invoke Section 307 of the IPC.

45. The aforesaid proceedings came to an end by order dated 21 November 2024, passed by the learned Judicial Magistrate (First Class) Basirhat, pursuant to an application being filed by the complainant, at whose instance the FIR has been registered under Section 320 of the Cr.PC, submitting that she did not desire to continue with the matter.

46. Accordingly, in terms of Section 320(8)[19] of the Cr.PC, the offence was compounded and the petitioner was acquitted by the learned Judicial Magistrate *vide* order dated 21 November 2024.

47. These facts were duly intimated by the petitioner to the respondent at the time of his selection and joining the services.

48. Subsequently, however, by order dated 10 April 2025, following the examination of the case of the petitioner, by the CISF Standing Screening Committee, the petitioner was declared unsuitable for employment in the CISF. The letter clearly stated that it was issued

[18] Hereinafter "IPC"

[19] **320. Compounding of offences**.—

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(8) The composition of an offence under this section shall have the effect of an acquittal

in terms of the directions and instructions issued by Ministry of Home Affairs in that regard.

49. This was followed by a detailed order dated 22 April 2025, from which we deem it appropriate to reproduce paras 2, 3, 9 and 10[20] thus:

> "02. AND WHEREAS, the candidate reported at CISF RTC Bhilai on 22.01.2025 to join the force. As per the established procedure, the suitability of all newly recruited candidates was to be confirmed prior to final induction. During the documents verification process, it came to light that one criminal case had been registered against the candidate:
>
> **1st Criminal Case:**
>
> - FIR No.: 617/2023 dated 05.10.2023, Baduria PS, North 24 Parganas (WB)
> - Sections: 447,323, 325, 307 & 34 IPC
> - Subsequent Chargesheet; No. 654/2023 dated 31,10.2023 and except Sections 307 IPC
> - Court: Judicial Magistrate, 1st Additional Court, Basirhat Judgment Date: 21.11.2024
> - Outcome: Acquitted on the basis of compromise.
>
> 03. WHEREAS, based on the above facts, the case was referred to 19th CISF Standing Screening Committee (SSC) for assessment of the candidate's suitability, as per the provisions outlined in the Ministry of Home Affairs (MHA) Policy Guidelines dated 01.02.2012 and directions issued by the Hon'ble High Court of Delhi in its judgment 'dated 25.02.2025
>
> Upon examination, the Committee observed as follows:-
>
> **1st Offence**
>
> - Sections 307 framed against the candidate in the FIR was not proved during the investigation and was subsequently removed.
> - Sections 447 & 325 framed against the individual are serious offence covered in Annexure "A" of the Policy Guidelines issued by MHA vide UO Note Dated 01.02.2012.

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of the accused with whom the offence has been compounded.

[20] Wrongly numbered paras 9 and 10 in the order itself

- Chargesheet filed against the candidate, and the charges fall in the category of Serious offence.
- Acquitted on the basis of compromise. **It is not a case of clean acquittal.**
- Para 2 (V) of the MHA Policy Guidelines dated 01.02,2012 states that "Notwithstanding the provision of 2 (III) above, such candidates against whom charge sheet in a criminal case has been filed in the court and the charges fall in the category of serious offences or moral turpitude, though later on acquitted by extending benefit of doubt or acquitted for the reasons that the witness have turned hostile due to fear of reprisal by the accused person (s), he/she will generally not be considered suitable for appointment in the CAPF".
- Para 2 of MHA OM dated 18.07.2019 regarding guidelines formulated in Apex Court Order in Avtar Singh's Case at Para 30 (3) states that **"The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision."**

*****

09. THEREFORE, the Committee opines that the candidate is "UNSUITABLE" for employment in CISF vide CISF FHQrs. New Delhi, order No.-E-32017(1)/19th (36th)SSC/Reett-1/2025/887 Dated 07th April 2025.

10. The candidate should acknowledge receipt of this order."

50. Aggrieved by the aforesaid termination of his candidature, the petitioner has approached this Court by means of the present writ petition.

51. We have heard Mr. Baisala, learned Counsel for the petitioner and Mr. Tiwari, learned CGSC for the respondent at some length.

Analysis

A. Applying the 2012 Guidelines

52. Annexure A to the Guidelines includes Section 325 of the IPC.

53. As such, the petitioner's case would fall within Para 2 (III)(a) of the circular as the FIR against him was registered *inter alia* under Section 325 of the IPC.

54. However, inasmuch as the petitioner was acquitted by the learned Judicial Magistrate by order dated 21 November 2024, albeit under Section 320 (8) of the Cr PC, his case would be covered by the second proviso in para 2 (III) of the 2012 Guidelines which would, therefore, immunise him from the effect of clause (a) prior thereto.

55. Further, the present case is not one in which the acquittal of the petitioner by the learned Judicial Magistrate is either on benefit of doubt or because the witness has turned hostile due to fear of reprisal by the accused person.

56. As such, Para 2(V) of the circular dated 1 February 2012 does not apply. Resultantly, Para 2(III) of the circular would apply.

57. This would also entitle, consequently, the petitioner to the benefit of the second proviso to Para 2 (III) of the 2012 Guidelines.

B. Applying CISF Circular 08/2018 and the decisions in ***Avtar Singh***, ***Ravindra Kumar*** and ***Manish Saini***

58. The FIR against the petitioner was based on a complaint. The petitioner was ultimately acquitted as the complainant herself moved

an application under Section 320 of the Cr.PC stating that she did not wish to proceed with the complaint. The petitioner was, therefore, acquitted under Section 320(8).

59. In view of the fact that the complainant herself did not wish to prosecute the complaint, the very basis of the FIR lodged against the petitioner was eroded. The case, if anything, therefore, stands at a higher pedestal than one in which the petitioner had to suffer a trial and was ultimately acquitted.

60. Where the FIR against the petitioner was on the basis of a complaint, and the complainant herself subsequently stated before the competent criminal court that she did not wish to prosecute the complaint, we do not see how the petitioner could be treated as disqualified for appointment in the CISF on the basis of the criminal case which had initially been lodged against him.

61. We, therefore, quash and set aside the decision to treat the petitioner as unsuitable for employment in the CISF. The impugned letters dated 10 April 2025 and 22 April 2025 are therefore quashed and set aside.

62. The appointment of the petitioner in the CISF, therefore, stands revived. The petitioner would be entitled to all consequential benefits, including continuity in service and seniority as well as pay fixation. However, he would not be entitled to any back wages.

63. The petition is accordingly allowed to the aforesaid extent.

64. The respondents are directed to comply with this order positively within a period of four weeks from today.

WP (C) 6434/2025 [*Kuldeep Kumar v Union of India & Anr*]

65. In this case, FIR No. 12/2016 was lodged against the petitioner under Sections 147/148/323/325/341 read with Section 149 of the IPC.

66. The following paragraphs, from the judgment dated 20 January 2023 of the learned JMFC, whereby the accused, including the petitioner, were acquitted, clearly indicate that the acquittal was on benefit of doubt:

> "24. Further, to corroborate the version of injured prosecution witnesses the prosecution took support of medical evidence in the form of their MLRs. But since, prosecution failed to close its evidence despite availing several effective opportunities the prosecution evidence had been closed by the court order. Though these MLRs on record doesn't stand duly proved by way of examining the concerned doctors by whom those had been prepared but even if MLRs are perused these shows that injuries suffered by prosecution witnesses on the same date as date of incident. And, as far as question of reliability aspect of injured witnesses PW-1, PW3 and PW7 is concerned, these are injured witnesses whose evidence deserve special status and greater evidential value and cannot simply be discarded unless compelling reasons exist to do so or there are material contradictions or discrepancies in their testimonies. Upon appreciation of evidence of said witnesses, though on material aspect of suffering of injuries upon them, learned counsel for the accused persons argued before the court that there are material major contradiction in the testimonies of the prosecution witnesses with regard to weapon of offence and difference in attribution of injuries and material contradictions, material improvements in their depositions. On perusal of evidence on record it shows that there is contradiction with regard to use of weapon of offence by the specific accused

and also with regard to injuries inflicted. Further as mentioned above also PW8 Rajbir though has deposed being eye witness but during his cross-examination has clearly stated that he had not seen inflicting injuries, in this way his evidence remains inadmissible. But even if for the relying upon the evidence put forth by the prosecution, even on considering the MLRs on record. Though ocular evidence is not supported by proved medical evidence as doctors were not examined to prove the MLRs of injured on file as prosecution failed to conclude evidence despite several opportunities and lastly evidence of prosecution had been closed by court order but even if MLRs are perused they are of same date and even if grievous injuries needs to be proved with extra extra caution these MLRs cannot be easily brushed aside and it is amply clear that injured PWs had suffered injuries and under these factual circumstances all accused persons are liable for the hurt injuries suffered by complainant party.

25. Learned counsel for the accused argued that in the incident accused suffered injuries, to which, from the evidence it is also clear that in this alleged occurrence the accused party had also suffered injuries as is apparent from the contents of challan itself but PW1 has not stated anything qua the injuries suffered by the any of the accused stated in the challan. PW3 Surender injured witness has stated in his cross-examination that accused had also suffered normal injuries and that they also remained admitted in hospital and also that a case had been registered over them also. While PW7 Rajiv has stated in his cross-examination that accused party had not suffered no injury in the alleged occurrence. And PW8 has stated in his cross-examination that accused party had not suffered any injuries, only Kuldeep had suffered few injuries but they have not uttered even a single word qua the circumstances in which accused party had suffered injuries, rather some of them had denied in express terms but they utterly failed to explain as under what circumstances accused suffered injuries which further lead to inferences that these witnesses are trying to conceal the real genesis of the crime. There is nothing in their evidence whether they caused injuries to accused party in their self defence or otherwise. Under such factual circumstances, resultantly, evidence of aforesaid injured witnesses remained partly reliable only on the aspect of suffering of hurt upon their body part in the alleged occurrence at the hands of accused persons. Otherwise, on other aspects their evidence remained shaky and un-reliable despite of factum of they being injured witnesses whose evidence deserves higher probative value. The site map of place of occurrence is not proved by any of the prosecution witness.

26. Further, coming to the defence taken by the accused persons they have taken no specific defence except their innocence

which is even otherwise presumed unless proved guilty, in statements u/s 313 Cr PC. Neither of the accused stepped in to witness box to depose anything in their defence. But it is contended by the learned counsel for the accused that qua the same incident a compliant case titled as Kuldeep and Ors COMI-127 of 2016 is also filed pending against present complainant wherein they had been summoned by the court. Thus, it is clear and even not denied by the prosecution altogether that incident had taken place prosecution has not disclosed the motive of the accused party and nor does the accused party had explained anything in this regard. Hence, real genesis of crime is concealed from the Court. Further, no doubt the prosecution has failed to explain the injuries suffered by accused party as evident in cross-case but non-explanation of injuries by the prosecution will not affect the prosecution case where no such specific defence version of accused that they caused injuries upon Complainant party in their self defence or where the evidence are clear and cogent, credit worthy, that it outweighs the effect of omission on the part of the prosecution to explain the injuries. Further, the obligation of the prosecution to explain the injuries upon the accused may not arise in each case. In other words, it is not an invariable rule that the prosecution has to explain the injuries sustained by the accused in the same occurrence.

27. Moreover, neither of the injured accused stepped in to witness box nor any specific questions were put to prosecution witnesses so as to enable them to explain the specific injuries upon accused persons except that accused party also suffered injuries, no MLR of the accused is on the case file. But, even some of the prosecution witnesses also have not denied that case was registered against them also. Further, in case the injuries upon accused remained unexplained by the prosecution and accused be given benefits of that, then similar would be situation in case of the injured complainant party. In the absence of any specific defence by accused and even concealment of real genesis of the incidence before the court by them also it is not safe to disbelieve the version of prosecution. But, since cases are pending from both the sides, from one side state case and from other side the complaint case qua the same incidence, it becomes necessary to see that which was the aggressor party and who initiated the fight. Upon this, if evidence on record be examined it shows that no object or motive or reason is stated by the prosecution and further even strangely, prosecution had not made Savitri as witness to the present case for the best reasons known to prosecution with whom the alleged occurrence started, she could have been the best person even otherwise also nothing is stated by any other prosecution witness in this regard and even accused party has said nothing on this aspect, not even a single suggestion is given by learned counsel for the accused to

witnesses. Such factual circumstances clearly show that both complainant party and accused party are concealing real and true material facts from the court so as to bring the real genesis of the crime before the Court. Rather, each party came with version and counter version of unilateral suffering of injuries without causing any counter injury to opposite party or causing the injury in their self defence which clearly goes against reliable medical evidence. However, it remained an open fight where both parties participated in their joint concert and having caused injuries to opponent party. Hence, none of the party deserve concession of benefits of doubts in pretext of either party to be aggressor or acted in repulsion, it being a case of free fight.

28. Further, it is settled position of law in cross-cases that in case of free fight where two parties clashed each other, the Court is required to determine as which of the party acted as an aggressor. If it can not be determined, then both parties are to be given benefits of doubts and in turn be acquitted. Further, where there is case of free fight, the question of acting in self defence does not arise at all. Thus, under factual matrix of the case accused deserves benefits of doubts.

29. Importantly, the another aspect which created serious dent in the prosecution case remained of unexplained delay of more than one and a half month in registration of the FIR in present case without extending any explanation in this regard. The delay is excessive and not supported by any plausible ground and which is fatal to the prosecution case, as contended by learned counsel for accused persons. No counter argument was made by of learned Assistant Public Prosecutor. The bare perusal of the evidence on record shows that the alleged occurrence is of 13.12.2015 while FIR had been registered on 04.02.2016. After the death of Investigating officer, prosecution didn't took pain to examine any witness to prove the copy of DDRs on record. Perusal of case file shows that initial statement of Rajiv is bears date 13.12.2015 over which diary number is also mentioned but Ex. PW3/B shows that on the basis of their the case was registered on 04.02.2016 but it is not clear that in what circumstances, it took so long to register FIR. No such evidence is there on record that could suggest possible reasons for the same.

30. It is a cardinal principle of the criminal jurisprudence that guilt of accused must be proved beyond the shadow of any reasonable doubts. If there is even a slightest doubt about the guilt of the accused, the benefit of the same should be given to him/her. In the case in hand, prosecution has failed to prove guilt of accused beyond shadow of reasonable doubts in view of above discussion and in view of the attending circumstances of the case at hand, it is

not safe to convict them under the offences they are charged with.

31. In view of the discussion made above, I reach the irresistible conclusion that accused deserve benefits of doubts. Accordingly, accused persons are hereby acquitted of all the charges framed against them. File be consigned to records room after due compliance. Their bail bonds and surety bonds shall remain effective till the expiry of six months from today so as to comply with the provisions of Section 437-A of Code of Criminal Procedure. Case property, if any, be disposed of as per the rules. File be consigned to record room after due compliance."

67. The offences which form subject matter of the FIR fall within Annexure A to the MHA circular dated 1 February 2012. By operation of para 2(V) of the said circular, therefore, the petitioner would not be entitled to the benefit of the acquittal, as the acquittal is clearly on benefit of doubt.

68. In that view of the matter, no fault can be found with the respondent in treating the petitioner as unsuitable for employment in the CISF.

69. The impugned orders dated 7 April 2025 and 17 April 2025 are, therefore, upheld.

70. The writ petition stands dismissed.

W.P.(C) 6465/2025 [*Suvojit Sarkar v Union of India & anr*]

71. The petitioner was charge sheeted under Sections 341, 325, 354C, 354, 509 and 506 read with Section 34 of the Indian Penal Code registered as FIR No. 364/2023. The petitioner was tried by the

Judicial Magistrate (1st Class), Bongaon. By judgment dated 10 January 2025, the petitioner was acquitted. The following paragraphs from the judgment of the Judicial Magistrate (1st Class), Bongaon are relevant:

> "24. Now, for the point No. (ii) i.e. whether the accused person has voluntarily caused grievous hurt to the son of de facto complainant in this case and thereby has committed an offence punishable under Sec. 325 of the Indian Penal Code. 1860 as alleged by the prosecution or not? Here also, as because issue No. (1) te. commission of offence of wrongful restrained by the accused person in the case is not proved by the prosecution. Thus, offence of voluntarily causing grievous hurt under Sec 125 of LP.C. to her son by the accused person i651 case also does not leg to stand. Thus, voluntarily causing grievous hurt to the son of de facto complainant by the accused person in the case also does not leg to stand. Here, neither the doctor was adduced as a witness nor was the medical documents or injury report produced before the court. Therefore, the nature of alleged injury inflicted is not known to the court, whether it was a simple or grievous injury or not at all. Thus, there is also absence of any sufficient oral and documentary evidence regarding the commission of this offence in the case. Accordingly, this point also fails here and so not proved by the prosecution.
>
> **(c) Point No. (iii): -**
>
> (iii) Whether the accused person has outraged her modesty of the de facto complainant and thereby has committed an offence in this case punishable under Sec. 331 of the Indian Penal Code. 1860 as alleged by the prosecution or not?
>
> 25. Now, for the point No. (iii)i.e whether the accused person has outraged her modesty of the de facto complainant cum victim in this case and thereby has committed an offence punishable under Sec. 354 of the Indian Penal Code 1860 as alleged by the prosecution or not? Here, as because the above issue No. (i) i.e commission of offence of wrongful restrained by the accused person to the de facto complainant cum victim in the case is not proved by the prosecution. Thus, commission of offence of outraging her modesty of the de facto complainant cum victim by the accused person in the case also does not leg to stand. Besides then these, the concerned 1.0. of the case did not seize the said particular tern wearing apparels of the victim from the P.O. and produce the same before the court for exhibition. Thus, instant offence can merely be proved by the oral evidence and there is no

such oral evidence in the case as adduced by the prosecution, Accordingly, this point also fails here and so not proved by the prosecution.

(d) Point No. (iv):-

(iv) Whether the accused person by using the words, gesture or an act has intended to insult her modesty of the de facto complainant and thereby has committed an offence in this case punishable under Sec. 509 of the Indian Penal Code, 1860 as alleged by the prosecution or not?

26. Now, for the point No. (iv) i.e. whether the accused person by using words, gesture or an act has intended to insult the modesty of the de facto complainant cum victim in this case and thereby has committed an offence punishable under Sec. 509 of the Indian Penal Code, 1860 as alleged by the prosecution or not? Here also, as because the above issue No. (i) the commission of offence of wrongful restrained by the accused person to the de facto complainant cum victim in the case is not proved by the prosecution, Thus, comission of offence of insulting her modesty of the de-facto complainant cum victim by the accused person by using words, gesture or an act in the case also does not leg to stand. Accordingly, this point also fails here and so not proved by the prosecution

(e) Point No. (v):-

(v) Whether the accused person hus caused criminal intimidation to the defacto complainant in this case and thereby has committed an offence punishable under Sec. 506 of the Indian Penal Code, 1860 as alleged by the prosecution or not?

27. Again, for the point No. (v) i.e whether the accused person has caused criminal intimidation to the de facto complainant in this case and thereby has committed an offence punishable under Sec. 506 of the Indian Penal Code, 1860 as alleged by the prosecution or not? Here also, as because above issue No.(i) ie. commission of offence of wrongful restrained by the accused person to the defacto complainant is not proved by the prosecution therefore, causing criminal intimidation or threatening with dire consequences by the accused person also does not leg to stand due to lack of ascertainment of P.O. (place of occurrence). Besides than these, there is also absence of any sufficient oral and documentary evidence regarding the commission of offence of criminal intimidation by the accused person to the de-facto complainant in the case. Accordingly, this point also fails here and so not proved

by the prosecution.

(d) Point No. (iv)

(iv) Whether the prosecution has been able to prove its case beyond a reasonable doubt or not?

28. Lastly, here, as because all the above points No. (i), (ii) & (iii) regarding the commission of above alleged offences by the accused person have not been proved by the prosecution in the case. Therefore, it is also hereby conclusively proved that the prosecution has not been able to prove its case in the instant case beyond a reasonable doubt

29. The Hon'ble Apex Court in the case of ***Babu Singh v State of Punjab***[21] while determining the standard of proof to be proved by the prosecution in any criminal case has laid down some fundamental principles of measurement which is still a guiding factor at present day despite elapse of many years of pronouncement of saal landmark judgment. The Hon'ble Court laid down as:-

"In a criminal trial the presumption of innocence in a principle of cardinal importance and so, the guilt of the accused must in every case be proved beyond a reasonable doubt. Probabilities however strong and suspicion however grave can never take the place of proof." (Para21)

30. Similarly, in an aged old case of ***Saraswati Prasad v Rex***[22], the Hon'ble Allahabad High Court has observed as:

"It is true that the burden of establishing any special issue raised by the accused rests upon him, but there is always the burden of the general sne as to the guilt of accused person which always rests upon the prosecution. When the burden of the issue is on the prosecution the case must be proved beyond a reasonable doubt: when, however, the burden of an issue is upon the accused, he is not in general called on to prove it beyond a reasonable doubt, or in elkefault to incur a verdict of guilty: it is sufficient if he succeeds in proving a primo facie case, for then the burden of such issue is shifted to the prosecution which has still to discharge its original and major ones that never shifts, that is, that of establishing on the whole case, the guilt of the accused beyond a reasonable doubt: A.I.R.(20) 1933 Cal. 800, Rel. on. "(Para 6)

31. Hence, considering all the aspects and circumstances of the case and also considering aforesaid discussions and judicial

[21] **1964(1) Cri. 11. 566**
[22] **AIR 1949 All 412**

> decisions it appears that in the instant case the prosecution has miserably been failed to prove its case beyond a reasonable doubt against the accused person. In result the prosecution case fails and the sole accused person is entitled to get an acquittal."

72. This, therefore, is not a case in which the acquittal was on benefit of doubt or because the witnesses had turned hostile of fear of reprises from the accused. It does not fall therefore within one of the exceptions envisaged in paragraph 2(V) of the 2012 Guidelines.

73. Accordingly, the petitioner is entitled to the benefit of the second proviso under para 2(III) of the 2012 Guidelines. As he stands acquitted of the charges against him, the decision of the respondents to regard him as ineligible for recruitment to the CISF cannot sustain.

74. Accordingly, the impugned order dated 10 April 2025 is set aside. The offer of appointment granted to the petitioner is revived.

75. The petitioner would be entitled to be appointed to the CISF in pursuance to the said order of appointment.

76. He shall also be entitled to be treated at par with other candidates who are appointed following the selection in which the petitioner participated. He shall also be entitled to consequential benefits by way of seniority as well as fixation of pay but shall not be entitled to any backwages. The petitioner shall also be permitted to join the training which is stated to have already commenced.

77. The respondents are directed to comply with this order positively within a period of four weeks from today.

78. The petition is accordingly allowed.

W.P.(C) 6959/2025 [*Ankush Nandkishor Raut v Union of India & Anr*]

79. FIR No. 264/2024 was lodged against the petitioner, under Sections 354-A, 354-D, and 506 IPC at PS Daryapur, Tq. Daryapur Dist. Amravati.

80. The criminal proceedings against the petitioner, which followed, were concluded on the basis of a compromise following a settlement between the petitioner and the complainant. This is apparent from the following passages from the judgment dated 19 November 2024 of the JMFC:

> "09. Thus, the public prosecutor conducted a thorough cross examination of the prosecutor as he did not assist the prosecution. On the contrary during cross-examination she denied that at the time of the incident, the complainant had taken away the mobile phone of the accused so as not to contact her & the accused had twist her right hand and threatened her with suicide. On the other hand, the complainant admitted during her cross-examination that the accused & she had settled out of court.
>
> 10. In support of the settlement reached, the Complainant & accused filed compromise pursis on Exh 22, in view that the complainant has complete denial of the incident in her evidence & the compromised on the record, the further evidence of the prosecution was closed as per the above order on Exh 1.
>
> 11. As the complainant examined by the prosecution did not give any supporting evidence to the prosecution story. It is not proved that the accused had follow her & twist her hand and threatened her with suicide at time of incident. On the other hand, it appears from the evidence of the prosecution that he did not assist the prosecution as there was an out of court settlement between him and accused. Consequently, the prosecution has failed to prove the charges levelled against the accused. For I issue no 1 to 3answering negative & passing the following order in reply to

issue no 4.

Order

1) Accused Ankush Nandkishor Raut is acquitted of the offence punishable under Section 354-A, 354-D and 506 of the Indian Penal Code as per Section 248(1) of the Penal Code.

2) The bail and bond of the accused shall be cancelled.

3) The accused shall furnish competent and fresh bail under Section 437-A of the code of Criminal Procedure."

81. This case would, therefore, fall within the category of cases envisaged in CISF Circular 08/2018 in which the criminal proceedings are brought to an end following a compromise.

82. Such cases are not entitled to the benefit of the dispensation contained in the second proviso to para 2(iii) of the 2012 Guidelines.

83. Accordingly, we find no error in the decision of the respondent in treating the petitioner as unsuitable for appointment in the CISF.

84. The writ petition stands dismissed.

W.P.(C) 6970/2025 [*Aaditay Kumar v Union of India & anr*]

85. FIR No. 134/2021 was lodged against the petitioner under Sections 341, 323, 324, 354, 379, 504, 506 and 34 of the IPC.

86. In this case too, the proceedings between the petitioner and the complainant were disposed of on the basis of a compromise between

them arrived at before the National Lok Adalat which is apparent from the order dated 9 December 2023, which reads thus:

> "The dispute between the parties has been referred for determination before the National Lok Adalat and the parties have settled the dispute/matter by mutual settlement. Therefore, as per the terms of the settlement, the following award is passed:-
>
> Both the parties were present before the court of National Lok Bench A-06 and they agreed to the matter. Hence, the said case is disposed of on the basis of compromise and the accused will be acquitted and after depositing them in the due course of procedure. The parties are informed that if court fees have been paid by any party then the court fees will be refunded to the applicant."

87. Being a case of acquittal on the basis of compromise, this writ petition has to meet the same fate as WP (C) 6959/2025.

88. The petition is accordingly dismissed.

W.P.(C) 6972/2025 [*Kanwale Rahul Datta v Union of India & anr*]

89. FIR 275/2021 was lodged against the petitioner under Sections 363, 366-A and 376(2)(j) & (n) read with Section 34 of the IPC and Sections 6 and 16 of the Protection of Children from Sexual Offences Act, 2012.

90. The following paragraphs, from the judgment dated 20 December 2024 of the learned JMFC, whereby the accused, including the petitioner, were acquitted, merit reproduction:

> "26. Based on the prosecution's evidence, including the testimonies of the victim, her uncle and medical officer, it is clear that the victim and Accused No. 1 were in a romantic relationship. The victim's testimony suggests that she voluntarily accompanied

the accused, and there is no indication to doubt her version of events. The victim stated that she left her parents' home willingly. While traveling with the accused, she had the opportunity to seek help from the public but chose not to, indicating that she willingly went with the accused. As regards physical relations between them is concerned, the medical officer has stated that sexual assault cannot be ruled out. But lack of external injuries noted by the medical officer shows that the victim consented to the physical relations. Furthermore, the prosecution failed to establish that the victim was underage at the time of the incident. However, the lack of clear evidence to prove her age at the time of the incident weakens the case against the accused, as age plays a crucial role in determining whether a minor's consent can be legally valid. Therefore, the accusations of the victim being coerced or forced to have physical relations with the accused cannot be substantiated.

27. In the absence of proof that she was underage, and given that she voluntarily accompanied the accused and engaged in a sexual relationship, the accused cannot be held criminally liable. As the victim had attained the age of majority, she was capable of making her own decisions and understanding the consequences of her actions. Thus, it can be concluded that there is no credible evidence on record to establish that the accused kidnapped or raped the victim. The prosecution has failed to prove beyond reasonable doubt that the victim was a minor or that the accused committed any offenses against her. Consequently, the prosecution has failed in proving the guilt of the accused. Therefore, the accused are entitled to acquittal. Hence, I answer Points No.1 to 5 in the negative, and in answer to Point No.6, following Order is passed;

ORDER

1] The accused No.1 – Santosh s/o. Bajirao Aavate, No.2- Rahul s/o. Datta Kavale and No.3- Ashok @ Dinesh s/o. Baban Ambhore are hereby acquitted of the offence punishable under Sections 363, 366-A, 376(2)(j)(n) r/w.34 of the Indian Penal Code and Section 6, 16 of the Protection of Children from Sexual Offences Act, 2012 vide Section 235(1) of the Code of Criminal Procedure.

2] Bail bond of the accused stand cancelled.

3] The seized Muddemal properties i.e. a] The clothes of the victim as per MO-1 to 4 and clothes of the accused No.1 as per MO-5 to 8, being worthless, be destroyed after appeal period is over.

b] One red colour CT-100 Bajaj Company Motorcycle No.MH-22-J-4710 is already handed over to one- Laxman Sukhdev

Bulande on Indemnity Bond, hence, Indemnity Bond shall stands cancelled, after appeal period is over.

c] One blue colour Samsung Company mobile worth Rs.7,000/- seized from accused No.1- Santosh Aavate be returned to him, if claimed, after appeal period is over.

4] Accused shall execute personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount to appear before the Appellate Court as and when notice is issued within six months, as per the provisions of section 437-A of Code of Criminal Procedure. If the Surety intends to continue, the bail bond shall be valid for another six months."

91. From a reading of the order, it transpires that though the learned Criminal Court has arrived at a finding that the relationship between the petitioner and the victim/prosecutrix was consensual, the finding that the prosecutrix was major has been arrived at on the ground that the prosecution was not able to establish the fact that she was minor beyond reasonable doubt. As such, once the very factum of majority of the prosecutrix/victim was decided on the basis of reasonable doubt, the entire order has to be treated as one rendered on the basis of benefit of doubt.

92. Indeed, the learned JMFC has also ultimately concluded that the accused were entitled to the benefit of doubt.

93. Mr. Bainsla earnestly sought to submit that the petitioner was not the main accused. However, Section 34 of the IPC was invoked and it is trite that where a finding of Section 34 is returned against the accused, all accused are equally culpable.[23] The submission that the role played by the petitioner was different from the role played by

[23] **Krishnamurthy v State of Karnataka, (2022) 7 SCC 521**

other accused cannot sustain.

94. Accordingly, we sustain the order. The writ petition stands dismissed.

W.P.(C) 7858/2025 [*Sorab Das v Union of India & Anr.*]

95. FIR 104/2019 was lodged against the petitioner, under Sections 457 and 325 of the IPC at PS Baikhora, Tripura South.

96. The criminal proceedings against the petitioner, which followed, were concluded on the basis of a compromise following a settlement between the petitioner and the complainant with the intervention of the Panchayat. This is apparent from the following passages from the judgment dated 17 June 2024 of the JMFC:

> Prosecution has examined 02 witnesses. PW 1 is the complainant of this case and PW 2 is one witness. Complainant has stated that he filed this case against Sourav Das out of misunderstanding and now it has been settled with the intervention of panchayat. PW 2 who is brother of the complainant also stated that the matter has been settled between them.
>
> Ld. APP submitted in his argument that there is no materials in the evidence for the prosecution to pray for conviction of the accused person. Ld. Defence counsel on his argument submitted that the accused person was falsely implicated in this case and he is innocent and also prayed for acquittal of the accused person since there is no materials against the accused person in the prosecution case.
>
> 10] Considering the above discussions I am of the view that as the matter is settled out side the Court and no incriminating materials came out against the accused person due to settlement therefore the accused person is entitled to get acquittal.
>
> ORDER

> 11] In the result, accused person namely Sri Sorab Das @ Sarap @ Sarup is acquitted from the charge leveled against him u/s 457/323 of IPC and he be set at liberty.
>
> 12] The surety of the accused is discharged from the liabilities of the bail bond except the Bail Bond furnished U/S-437A of Cr.P.C which shall remain in-force for the next six months.
>
> 13] As there is no any seized articles, no order is passed in this regard.
>
> 14] The case is thus disposed of on contest.

97. This case would, therefore, fall within the category of cases envisaged in CISF Circular 08/2018 in which the criminal proceedings are brought to an end following a compromise.

98. Such cases are not entitled to the benefit of the dispensation contained in the second proviso to para 2(iii) of the 2012 Guidelines.

99. Accordingly, we find no error in the decision of the respondent in treating the petitioner as unsuitable for appointment in the CISF.

100. The writ petition stands dismissed.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

OCTOBER 14, 2025
AR/RJD/AT/DSN/PA/YG