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

Decided on: 09.04.2025

+ W.P.(C) 10050/2023

PRAYAS TYAGI

.....Petitioner

Through: Mr. Vikram Singh Dalal, Mr. Abishek Kumar, Mr. Pratham Chawla, Advocates.

versus

SECRETARY GENERAL, SUPREME COURT OF INDIA AND ORS

.....Respondents

Through: Mr. Rajshekar Rao, Sr.Adv. with Ms. Mansi Sood, Ms. Zehra Khan, Mr. Areeb Amanullah, Advocates for R-1 to 3 with Mr. Rajarshi Sharma.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

CM APPL. 21158/2025 (for early hearing)

This is an application for early hearing of the writ petition.

For the reasons stated and the consent of learned counsel for the parties the application is allowed and the writ petition is taken on Board.

W.P.(C) 10050/2023

1. The challenge of the petitioner in this writ petition is to an order dated 21.10.2022, whereby his candidature for the post of Junior Court Attendant ["JCA"] in the establishment of the Supreme Court of India has been cancelled. The petitioner also seeks a direction upon the respondent to appoint him to the said post. The order records that the cancellation of the petitioner's candidature was on account of a criminal case having



been registered against him under various sections of the Indian Penal Code, 1860 [“IPC”].

2. By an advertisement dated 14.03.2018, the respondent called applications, *inter alia*, for 65 vacancies for the post of JCA. The petitioner was admittedly eligible and was called for a written test, skill test and medical examination, and was successful at all these stages.

3. The genesis of the controversy, however, lies in a First Information Report [“FIR”] lodged by the petitioner’s wife (with whom his marriage has since been dissolved) under Section 3 and 4 of the Dowry Prohibition Act, 1961, and Section 307, 506, 323 and 498A of the IPC (FIR No. 0216/2020 dated 16.08.2020, registered in Police Station Bahadurgarh, District Hapur, Uttar Pradesh). The petitioner was named as an accused in the said FIR.

4. The petitioner was called upon to submit a biodata to the respondent, in which the fact of the said FIR was disclosed. He furnished further details of the proceedings pursuant to the respondent’s request, and was informed by the impugned order, that the Competent Authority had been pleased to cancel his candidature “*as candidates with criminal history are not suitable for appointment in the Supreme Court*”.

5. The petitioner has challenged the aforesaid decision by way of the present writ petition, in which notice was issued on 01.08.2023. In the abovementioned application for early hearing [CM APPL. 21158/2025], the petitioner has also brought it to the notice of the Court that he has, in fact, been acquitted by the Trial Court *vide* judgment dated 10.02.2025.

6. I have heard Mr. Vikram Singh Dalal, learned counsel for the petitioner, and Ms. Mansi Sood, learned counsel for the respondent.



7. The issue that falls for consideration is whether the decision of the respondent to cancel the petitioner's candidature on account of the pendency of criminal proceedings against him during the recruitment process, is liable to be interfered with by this Court.

8. As far as this aspect is concerned, Mr. Dalal has relied upon two decisions: (i) a judgment of the Supreme Court in *Avtar Singh vs. Union of India & Ors.*¹, and (ii) a Division Bench judgment of this Court in *Vikram Ruhel vs. Delhi Police & Ors.*².

9. The judgment in *Avtar Singh* summarises the legal position with regard to the effect of criminal proceedings on applications for public employment. It deals primarily with the question of suppression of criminal antecedents by the candidate, which is not relevant in the present case, as there is no allegation of suppression against the petitioner. However, the Supreme Court recognised that verification of character and antecedents is an important criterion to assess suitability. It held that this task should be left to the employer, but the ultimate action should be based on objective criteria and due consideration of all relevant material, including the nature of the post. The principles applicable to such a case have been articulated thus:

“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.

¹ (2016) 8 SCC 471 [hereinafter as “*Avtar Singh*”].

² 2023 SCC OnLine Del 3351 [hereinafter as “*Vikram Ruhel*”].



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.*

38.4.1. *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.”³

10. As noted above, the present case is not one of suppression of information relating to the pendency of a criminal case. The FIR was lodged during the recruitment exercise and was disclosed to the respondent. However, the principles laid down by the Supreme Court make it clear that even where an acquittal has been recorded, it is for the employer to consider all relevant facts available as to antecedents and take an appropriate decision with regard to the continuance of the candidature or termination of the employee’s services. For example, paragraph 38.4.3 deals with a case of acquittal in an offence involving moral turpitude or of an heinous/serious nature on technical grounds or where the benefit of reasonable doubt has been given. Paragraph 38.5 further elaborates that this consideration remains open to an employer



even in the absence of suppression.

11. Other judgments of the Supreme Court make it clear that the disclosure of antecedents by the candidate/ employee, does not *per se* entitle the person to appointment. The nature of the offences involved, and the status of the case – including the circumstances in which any order of acquittal has been made – must be examined in the context of the post in question. Further, it has been emphasised that the assessment of the administrator/ employer is entitled to great deference, in the absence of *mala fides*⁴.

12. The Division Bench judgment in *Vikram Ruhai* proceeds on an entirely different set of facts, as the petitioner therein had not been treated as a main accused but, placed in Column No. 12 of the chargesheet filed by the police after a detailed investigation. Although the criminal proceedings in that case also arose under similar provisions as the present case, the matrimonial dispute there was between the brother of the petitioner and his wife, wherein the petitioner and all other family members had been characterised as “*collateral accused*”. It was found that the allegations against the petitioner were generic in nature and that he was placed in Column No. 12 as the case was made out only against other accused. Having regard to these facts, the Division Bench held the petitioner therein entitled to appointment. The facts in the present case are distinguishable. The petitioner herein was the main accused in the FIR, which arose on a complaint of his own wife. The case of *Vikram Ruhai* is, therefore, of little assistance to the petitioner.

³ Emphasis supplied.

⁴ *Commr. of Police v. Mehar Singh* [(2013) 7 SCC 685]; *State (UT of Chandigarh) v. Pradeep Kumar*



13. In the counter affidavit filed by the respondent, reference has been made to the constitutional and statutory provisions, which vest the authority over appointments in the Supreme Court in the Hon'ble Chief Justice of India. It has specifically been stated that, in the present case, the matter was submitted to the Competent Authority for a decision with regard to candidature of seven candidates with criminal antecedents or history, and a decision was taken to cancel the candidature of all seven candidates. These included candidates against whom FIRs were pending as well as those who had been acquitted on account of benefit of doubt, compromise, or settlement. Details of the seven candidates who fall in this category, including the petitioner, have been provided in the counter affidavit. It has also been stated that a similar view was taken by the respondent in earlier recruitments.

14. The respondent has also pointed out that two of the seven candidates in the present recruitment exercise filed a petition under Article 32 of the Constitution before the Supreme Court as *Shilak vs. Supreme Court Recruitment Cell*⁵, which were dismissed by an order of the Supreme Court dated 20.01.2023, which reads as follows:

“Delay condoned.

It is not in dispute that the candidature of the petitioners have been rejected/cancelled in view of the pending criminal proceedings/prosecution against them.

In that view of the matter, the petitioners are not entitled to any relief as prayed. Hence, both the writ petitions stand dismissed.

*Pending applications, if any, shall stand disposed of.”*⁶

15. Applying the principles laid down by the Supreme Court in the

[(2018) 1 SCC 797]; *State of M.P. v. Bunt* [(2020) 17 SCC 654].

⁵ W.P.(C) 1143/2022 & connected matters.



aforesaid judgments, I am unable to discern any infirmity in the impugned decision. The criminal proceedings were admittedly pending at the time of the recruitment process. For the highest Court in the land to take a strict view with regard to criminal antecedents of those who serve in its establishment can hardly be regarded as inappropriate or arbitrary. Any employer, as held in *Avtar Singh*, is entitled to exercise his discretion on these aspects, having regard to the facts and circumstances of the case. Those in the service of the courts, more so the Supreme Court, discharge sensitive functions, and no fault can be found with the decision to exclude those with criminal antecedents.

16. Mr. Dalal submits that the recent acquittal of the petitioner constitutes a subsequent development, which ought to be taken in account by the respondent at this stage. It may be noticed that the recruitment exercise in question commenced in the year 2018, and the petitioner's candidature was cancelled in the year 2022. It is the contention of Ms. Sood that the recruitment exercise has since been concluded. In any event, the submission of Mr. Dalal effectively puts in place a never-ending exercise, where the candidature of each candidate would necessarily have to be considered several times, depending on the status of the criminal proceedings against him at each stage. I do not consider such a course to be mandated by law, or even administratively feasible. The petitioner's case was duly considered at the time of recruitment, when the criminal proceedings were pending against him, and a decision has been taken which accords with the legal position.

17. It may be noted that the judgment of the Trial Court acquitting the

⁶ Emphasis supplied.



petitioner is also one in which, at best, the prosecution case has not been established beyond reasonable doubt. The Trial Court has come to the conclusion that the evidence against the accused falls in the category of corroborative evidence, but the prosecution had failed to prove its case beyond all reasonable doubt. The petitioner has, thus, been acquitted on the reasoning that corroborative evidence alone cannot form the basis of a conviction. In the counter affidavit filed by the respondent, it has clearly been stated that the Competent Authority has exercised its discretion in such cases as well, i.e. cases in which acquittal was on account of reasonable doubt, and cancelled the candidature of those candidates.

18. Having regard to the aforesaid facts and circumstances, I am of the view that the petitioner is not entitled to the relief sought in this writ petition. The writ petition is, therefore, dismissed.

PRATEEK JALAN, J

APRIL 9, 2025

“Bhupi”/SD