

REPORTABLE**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO. 4842 OF 2013**

(Arising out of Special Leave Petition (Civil) No.38886 of
2012)

COMMISSIONER OF POLICE, NEW DELHI & ANR. ...Appellants

Versus

MEHAR SINGH

...Respondent

WITH**CIVIL APPEAL NO. 4965 OF 2013**

(Arising out of Special Leave Petition (Civil) No.4057 of
2013)

COMMISSIONER OF POLICE, NEW DELHI & ANR. ...Appellants

Versus

SHANI KUMAR

...Respondent

J U D G M E N T

(SMT.) RANJANA PRAKASH DESAI, J.

1. Leave granted in both the petitions.

2. In both the appeals the judgments of the Delhi High Court are under challenge. Appeal arising out of SLP (Civil) No. 38886 of 2012 is against Judgment dated 09/07/2012 passed in Writ Petition (Civil) No.3918 of 2012. Appeal arising out of SLP (Civil) No.4057 of 2013 is against Judgment dated 21/05/2012 passed in Writ Petition (Civil) No.3015 of 2012. Since both these appeals raise the same question of law, they can be disposed of by a common judgment. It may be stated here that while issuing notice, this Court has stayed the orders impugned in both the appeals.

3. The facts relating to the appeal against respondent - Mehar Singh could be shortly stated.

4. FIR No.126/04 was registered against respondent - Mehar Singh and others under Sections 143, 341, 323 and 427 of the Indian Penal Code ("**the IPC**") upon a complaint received from Ramji Lal s/o. Mamraj Saini r/o. Khetri - the owner of Bus No.RJ-18P 0493. The substance of the complaint was that when the bus reached the bus stand of

village Raipur on 15/5/2004 at about 3.15 p.m, respondent - Mehar Singh along with others armed with iron chain, lathi, belts, danda, stones etc. stopped the bus on the road and rebuked the conductor of the bus as to how he dared to take the fare from one of his associates. Sanjay Singh, Basant, Udai Bhan, Rajesh, Sandeep, Jagmal, Suresh and Karan Singh intervened and tried to save the conductor of the bus. During intervention, Sanjay and Basant suffered injuries on their back, eyes and ears. All the accused broke the side window panes of the bus by throwing stones and by giving blows with lathis/dandas. When the other passengers intervened, the accused fled the spot. The complainant along with the injured reached the police station and lodged the aforementioned complaint.

5. In the year 2009, the appellants issued an advertisement for filling-up the post of constables (Exe.) (male). It appears that in the criminal case registered against respondent - Mehar Singh, he arrived at a compromise with the complainant. In terms of the

compromise, he and other accused were acquitted of the offences under Sections 323, 341 and 427 of the IPC on 30/1/2009. As regards the offence under Section 147 of the IPC, the trial court acquitted him and other co-accused for want of evidence. It is pertinent to note that the witnesses turned hostile. Respondent - Mehar Singh applied for the post of constable pursuant to the advertisement issued by the appellants. In relevant papers, he disclosed his involvement in criminal case and his acquittal as both parties had entered into a compromise. He was assigned Roll No.422165 and put through the physical endurance and measurement test and written test. After interview, he was declared provisionally selected, subject to verification of character and antecedents. During character and antecedent verification, his involvement in the criminal case and his subsequent acquittal due to compromise between the parties was taken into account.

6. The case of respondent - Mehar Singh was examined by the Screening Committee constituted by respondent 1 i.e.

the Commissioner of Police, Delhi. The Screening Committee observed that respondent - Mehar Singh and others had assaulted the bus conductor with iron chain, belt and stones in a preplanned manner and caused injuries to him, which showed respondent - Mehar Singh's violent nature and scant respect for the law of the land. The Screening Committee in the circumstances did not recommend his case for appointment to the post of constable.

7. On 3/3/2011, appellant 2 - the Deputy Commissioner of Police (Recruitment), New Delhi issued a notice to respondent - Mehar Singh calling upon him to show cause as to why his candidature should not be cancelled. He replied to the show cause notice. He submitted that he was falsely implicated in the criminal case and acquitted in the year 2009 after a full fledged trial. He submitted that a mere registration of an FIR would not show any criminal propensity. According to him the offence was falsely reported by the complainant due to local issues and to avoid prolonged proceedings, the issue was settled between him

and the complainant and the trial court had acquitted him. The Screening Committee did not find his reply to be convincing. In his order dated 22/3/2011, the Deputy Commissioner of Police (Recruitment), New Delhi stated that the Screening Committee has, inter alia, observed that the actions of respondent - Mehar Singh depicted his violent nature and that he had no respect for the law of the land and on considering the totality of the circumstances, the Screening Committee held that he was not suitable for appointment to the post of constable. By the said letter, candidature of respondent - Mehar Singh was cancelled.

8. On 22/4/2011, respondent - Mehar Singh filed O.A. No.1819 of 2011 before the Central Administrative Tribunal (for short "**the Tribunal**"), Principal Bench, New Delhi challenging the order of the Screening Committee. The Tribunal by its order dated 7/3/2012 allowed his application. The Tribunal set aside order dated 22/03/2011 cancelling the candidature of Mehar Singh. The Tribunal referred to a couple of cases in which persons charged under Section 307

of the IPC were appointed by the appellants and held that there was total non-application of mind on the part of the appellants. A direction was given to consider the case of respondent - Mehar Singh if he was otherwise found to be fit, within six months.

9. Aggrieved by the order dated 7/3/2012 passed by the Tribunal, the appellants filed a writ petition before the Delhi High Court. The Delhi High Court dismissed the writ petition holding that since respondent - Mehar Singh had been acquitted of the offences for which he had faced trial, the same cannot be held against him. Being aggrieved by the said judgment and order, the appellants have preferred this appeal by special leave.

10. The facts relating to the appeal against respondent - Shani Kumar could be shortly stated. In 2007, FIR No.114/2007 was registered against respondent Shani - Kumar under Sections 307, 504 and 506 of the IPC at Police Station Babri, District Muzaffar Nagar, (U.P.). Admittedly, pursuant to an advertisement issued in the year 2009 for the

post of Constable (Exe.) (male) in Delhi Police for Phase II respondent - Shani Kumar applied for it. He mentioned in his application as well as attestation form that a criminal case was registered against him. On 23/4/2010, he was provisionally selected to the said post subject to verification of antecedents. On 14/5/2010, he was acquitted in the said case by giving him benefit of doubt. On 3/3/2011, the appellants issued a show cause notice to respondent - Shani Kumar calling upon him to show cause as to why his candidature to the post of Constable (Exe) (male) in Delhi Police should not be cancelled as he along with other co-accused was found involved in the offence of attempt to commit murder with deadly weapons and causing bullet injuries to the complainant's brother. Respondent - Shani Kumar sent a reply to the show cause notice on 14/3/2011, which did not find favour with the appellants. By order dated 22/3/2011, the Deputy Commissioner of Police, (Recruitment), NPL, Delhi cancelled respondent - Shani Kumar's candidature to the post of Constable (Exe.) (male).

11. Being aggrieved by this cancellation, respondent - Shani Kumar filed O.A. No.1821 of 2011 before the Tribunal. By order dated 24/1/2012, the Tribunal allowed the application and set aside order dated 22/3/2011 cancelling his candidature. A direction was issued that respondent - Shani Kumar be offered appointment to the said post as expeditiously as possible. Being aggrieved by the Tribunal's order, the appellants filed writ petition before the Delhi High Court. The High Court dismissed the appellants' writ petition. Hence, this appeal by special leave.

12. We have heard Mr. Rakesh Kumar Khanna, learned Additional Solicitor General appearing on behalf of the appellants and Mr. Ajesh Luthra, learned counsel appearing on behalf of the respondents. We have perused the written submissions filed by the appellants as well as by the respondents in both the appeals.

13. Mr. Rakesh Kumar Khanna, learned Additional Solicitor General, submitted that the employment in Delhi Police is of a very sensitive nature. Therefore, the character, integrity

and antecedents of a candidate aspiring to join it, assume importance. Keeping this in mind, the Commissioner of Police issued a Standing Order No.398/2010 dated 23/11/2010 laying down a uniform policy for deciding cases of candidates provisionally selected in Delhi Police involved in criminal cases (facing trial or acquitted). A Screening Committee has been constituted for that purpose. Taking an overall view of the matter, in the interest of Delhi Police, which is a disciplined force, the Screening Committee has taken a decision to cancel the candidature of both the respondents. The respondents have not challenged the Standing Order. The decision taken by the Screening Committee, in the circumstances, ought not to be interfered with. Counsel submitted that it is the settled law that acquittal of a person in a criminal case does not entitle him to reinstatement as a matter of right. The appointing authority may still find such a person unfit to be appointed to the post. Counsel submitted that even in cases of acquittal, departmental proceedings may follow when the acquittal is otherwise than honourable. If the acquittal in a criminal

case is on account of flawed prosecution, it would not have any impact on the finding of misconduct recorded in a departmental enquiry on the basis of adequate evidence. It is only if a person is honourably acquitted, that he can possibly argue that he should be appointed to any post. Counsel submitted that assuming the appellants have appointed some persons with criminal antecedents in the past; the doctrine of equality is not attracted to such cases. He submitted that if some candidates have been granted some benefits inadvertently, such order does not confer any right on the respondents to get the same relief. Counsel submitted that the impugned order does not take note of the above vital aspects and, therefore, must be set aside. In support of his submissions, counsel relied on the judgments of this Court in **Delhi Administration through its Chief Secretary & Ors. v. Sushil Kumar¹; Suresh Pathrella v. Oriental Bank of Commerce²; Fuljit Kaur etc. v. State of Punjab etc³; K. Venkateshwarlu v. State of**

¹ (1996) 11 SCC 605

² (2006) 10 SCC 572

³ (2010) 11 SCC 455

Andhra Pradesh⁴; Deputy Inspector General of Police & Anr. v. S. Samuthiram⁵; Chandigarh Administration & Anr. v. Jagjit Singh & Anr.⁶ and Maharaj Krishan Bhatt & Anr. v. State of Jammu & Kashmir & Ors.⁷.

14. Mr. Ajesh Luthra, learned counsel for the respondents submitted that the appellants' reliance on **Sushil Kumar** is misplaced because **Sushil Kumar** has been distinguished in **Commissioner of Police v. Dhaval Singh⁸. Sushil Kumar** was a case of concealment of facts whereas in this case, there is no concealment. Counsel submitted that, many a time, due to personal enmity and political reasons, people are falsely implicated in criminal cases. Very often, criminal cases end in acquittal or are compounded. Compounding or acquittal of a criminal case should, therefore, not act as an obstacle to a person being appointed to any post. Counsel submitted that an order of acquittal is always honourable. An acquittal is an acquittal for all

⁴ (2012) 8 SCC 73

⁵ (2013) 1 SCC 598

⁶ AIR 1995 SC 705

⁷ (2008) 9 SCC 24

⁸ (1999) 1 SCC 246

purposes. Relying on **Ghurey Lal v. State of U.P.**⁹, counsel submitted that a person is innocent unless proved otherwise. Administrative authorities cannot adjudicate the suitability of a selected candidate in this manner. Quasi judicial authorities cannot overreach the judgments delivered by a competent court of law. Counsel submitted that Lok Adalats have been created under the provisions of the Legal Services Authorities Act, 1987 to encourage compromises. If a selectee is to be denied appointment by adjudging him unsuitable because the criminal case against him has ended into acquittal only because of compromise, then, it will defeat the object of the said Act. Counsel submitted that the present case is different from cases involving departmental proceedings. In the matter of appointments, principles relating to pendency of criminal case and initiation of departmental proceedings will not be applicable. Counsel attacked the proceedings of the Screening Committee as being arbitrary, unguided and unfettered. He cited cases where, according to him, the

⁹ JT 2008(10) SC324

Screening Committee has recommended candidates against whom FIRs have been registered for serious offences, for appointment. Counsel further pointed out that involvement in a criminal case is not a disqualification or a stipulation towards ineligibility in Delhi Police (Appointment and Recruitment) Rules, 1980 (**"the Delhi Police Rules"**). Counsel submitted that for verification of antecedents, the appellants must not rely upon the criminal case where acquittal has been the final outcome. It is open for the appellants to conduct an independent enquiry about the character and antecedents of a candidate concerned. Counsel submitted that inasmuch as the respondents have honestly disclosed that criminal cases were registered against them and they ended either in acquittal or acquittal on account of compromise, they cannot be denied appointment in Delhi Police once having been selected for the same. He submitted that the appeals, therefore, be dismissed.

15. Before we deal with the rival submissions, it is necessary to refer to the judgment of this Court in **Jainendra Singh v. State of Uttar Pradesh**¹⁰. In that case the appellant had applied for the post of constable and was selected for the same. He had suppressed the fact that a criminal case was registered against him. Subsequently the said fact came to light and his appointment was terminated. Thereafter, he was acquitted in the criminal case. The question which fell for consideration of this Court was whether, after a person is appointed to a post in a disciplined force, it comes to light that he had suppressed the fact that he was involved in a criminal case his appointment can be terminated on the ground of suppression of material facts. Noticing conflicting decisions of this Court on this point and also the fact that different yardsticks are being applied in the matter of grant of relief, this Court formulated issues and referred them to a larger bench. Since all the formulated issues are premised on suppression of facts and since in this case there is no

¹⁰ (2012) 8 SCC 748

suppression of facts it is not necessary for us to defer the judgment of this case till the reference is answered by a larger Bench.

16. The question before this Court is whether the candidature of the respondents who had made a clean breast of their involvement in a criminal case by mentioning this fact in their application/attestation form while applying for a post of constable in Delhi Police; who were provisionally selected subject to verification of their antecedents and who were subsequently acquitted/discharged in the criminal case, could be cancelled by the Screening Committee of the Delhi Police on the ground that they are not found suitable for appointment to the post of constable.

17. We must first deal with the submission that under the Delhi Police Rules, past involvement of a person in a criminal case is not a disqualification for appointment. It is true that Rule 6 thereof which provides for grounds for ineligibility, criminal antecedents of a person is not mentioned as a ground for ineligibility. But, to conclude from this that

instances of moral turpitude, however grave, could be overlooked because they do not find mention in Rule 6, would be absurd. In any case, Standing Order No. 398/2010 issued by the Delhi Police to which our attention is drawn empowers the police to take appropriate decision in such cases. Pertinently the respondents have not challenged the Standing Order. This Standing Order incorporates policy for deciding cases of candidates provisionally selected in Delhi Police involved in criminal cases (facing trial or acquitted). It would be appropriate to re-produce the relevant portions of the said Standing Order:

“STANDING ORDER NO. 398/2010

POLICY FOR DECIDING CASES OF CANDIDATES
PROVISIONALLY SELECTED IN DELHI POLICE
INVOLVED IN CRIMINAL CASES (FACING TRIAL OR
ACQUITTED).

During the recruitments made in Delhi Police, several cases come to light where candidates conceal the fact of their involvement in criminal cases in the application Form/Attestation Form in the hope that it may not come to light and disclosure by them at the beginning of the recruitment process itself may debar them from participating in the various recruitment tests. Also

the appointment if he/she has been acquitted but not honourably.

In order to formulate a comprehensive policy, the following rules shall be applicable for all the recruitments conducted by Delhi Police:-

- 1). xxx xxx xxx
- 2). xxx xxx xxx
- 3). If a candidate had disclosed his/her involvement and/or arrest in criminal cases, complaint case, preventive proceedings etc. and the case is pending investigation or pending trial, the candidature will be kept in abeyance till the final decision of the case. After the court's judgment, if the candidate is acquitted or discharged, the case will be referred to the Screening Committee of the PHQ comprising of Special Commissioner of Police/Administration, Joint Commissioner of Police/Headquarters and Joint Commissioner of Police/Vigilance to assess his/her suitability for appointment in Delhi Police.
- 4) If a candidate had disclosed his/her involvement in criminal case, complaint case, preventive proceedings etc. both in the application form as well as in the attestation form but was acquitted or discharged by the court, his/her case will be referred to the Screening Committee of PHQ to assess his/her suitability for appointment in Delhi Police.
- 5). xxx xxx xxx
- 6). Such candidates against whom charge-sheet in any criminal case has been filed in the court and the charges fall in the category of serious offences or moral turpitude, though later acquitted or acquitted by extending benefit of doubt or the

witnesses have turned hostile due to fear of reprisal by the accused person, he/she will generally not be considered suitable for government service. However, all such cases will be judged by the Screening Committee of PHQ to assess their suitability for the government job. The details of criminal cases which involve moral turpitude may kindly be perused at Annexure 'A'.

7) Such cases in which a candidate had faced trial in any criminal case which does not fall in the category of moral turpitude and is subsequently acquitted by the court and he/she discloses about the same in both application form as well as attestation form will be judged by the Screening Committee to decide about his/her suitability for the government job.

8) xxx xxx xxx

9). If any candidate is discharged by extending the benefit of Probation of Offenders Act, 1958 this will also not be viewed adversely by the department for his/her suitability for government service.

10). If a candidate was involved in a criminal case which was withdrawn by the State Government, he/she will generally be considered fit for government service, unless there are other extenuating circumstances."

Annexure 'A' as mentioned in Clause 6 above lays down the following offences involving moral turpitude:

1. Criminal Conspiracy (Section 120-B, IPC)

2. Offences against the State (Sections 121 - 130, IPC)
 3. Offences relating to Army, Navy and Air Force (Sections 131-134, IPC)
 4. Offence against Public Tranquility (Section 153-A & B, IPC).
 5. False evidence and offences against Public Justice (Sections 193-216A, IPC)
 6. Offences relating to coin and government stamps (Section 231-263A, IPC).
 7. Offences relating to Religion (Section 295-297, IPC)
 8. Offences affecting Human Body (Sections 302-304, 304B, 305-308, 311-317, 325-333, 335, 347, 348, 354, 363-373, 376-376-A, 376-B, 376-C, 376-D, 377, IPC)
 9. Offences against Property (Section 379-462, IPC)
 10. Offences relating to Documents and Property Marks (Section 465-489, IPC)
 11. Offences relating to Marriage and Dowry Prohibition Act (Section 498-A, IPC)
18. Clause 3 of the Comprehensive Policy delineated in the Standing Order is material for the present case. It refers to the Screening Committee comprising high police officers.

After a candidate, who has disclosed his involvement, is acquitted or discharged, the Committee has to assess his/her suitability for appointment. Clause 6 states that those against whom serious offences or offences involving moral turpitude are registered and who are later on acquitted by extending benefit of doubt or because the witnesses have turned hostile due to fear of reprisal by the accused person shall not generally be considered suitable for government service. However, all such cases will be considered by the Screening Committee manned by senior officers. In our opinion, the word '*generally*' indicates the nature of discretion. As a matter of rule, such candidates have to be avoided. Exceptions will be few and far between and obviously must be substantiated with acceptable reasons.

19. A careful perusal of the policy leads us to conclude that the Screening Committee would be entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they are acquitted or discharged if it feels that the acquittal or discharge is on technical grounds or not

honourable. The Screening Committee will be within its rights to cancel the candidature of a candidate if it finds that the acquittal is based on some serious flaw in the conduct of the prosecution case or is the result of material witnesses turning hostile. It is only experienced officers of the Screening Committee who will be able to judge whether the acquitted or discharged candidate is likely to revert to similar activities in future with more strength and vigour, if appointed, to the post in a police force. The Screening Committee will have to consider the nature and extent of such person's involvement in the crime and his propensity of becoming a cause for worsening the law and order situation rather than maintaining it. In our opinion, this policy framed by the Delhi Police does not merit any interference from this Court as its object appears to be to ensure that only persons with impeccable character enter the police force.

20. We find no substance in the contention that by cancelling the respondents' candidature, the Screening Committee has overreached the judgments of the criminal

court. We are aware that the question of co-relation between a criminal case and a departmental inquiry does not directly arise here, but, support can be drawn from the principles laid down by this Court in connection with it because the issue involved is somewhat identical namely whether to allow a person with doubtful integrity to work in the department. While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit. An acquittal based on benefit of doubt would not stand on par with a clean acquittal on merit after a full fledged trial, where there is no indication of the witnesses being won over. In **R.P. Kapur v. Union of India**¹¹ this Court has taken a view that departmental proceedings can proceed even though a person is acquitted when the acquittal is other than honourable.

¹¹ AIR 1964 SC 787

21. The expression '*honourable acquittal*' was considered by this Court in **S. Samuthiram**. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 of the IPC and under Section 4 of the Eve-teasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in **Management of Reserve Bank of India, New Delhi v. Bhopal Singh Panchal**¹², where in somewhat similar fact situation, this Court upheld a bank's action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in departmental proceedings. This Court observed that the expressions '*honourable acquittal*', '*acquitted of blame*' and

¹² (1994) 1 SCC 541

'fully exonerated' are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression *'honourably acquitted'*. This Court expressed that when the accused is acquitted after full consideration of prosecution case and the prosecution miserably fails to prove the charges leveled against the accused, it can possibly be said that the accused was honourably acquitted. In light of above, we are of the opinion that since the purpose of departmental proceedings is to keep persons, who are guilty of serious misconduct or dereliction of duty or who are guilty of grave cases of moral turpitude, out of the department, if found necessary, because they pollute the department, surely the above principles will apply with more vigour at the point of entry of a person in the police department i.e. at the time of recruitment. If it is found by the Screening Committee that the person against whom a serious case involving moral turpitude is registered is discharged on technical grounds or is acquitted of the same charge but the acquittal is not honourable, the Screening

Committee would be entitled to cancel his candidature. Stricter norms need to be applied while appointing persons in a disciplinary force because public interest is involved in it.

22. Against the above background, we shall now examine what is the nature of acquittal of the respondents. As per the complaint lodged by Ramji Lal, respondent Mehar Singh and others armed with iron chains, lathis, danda, stones etc. stopped a bus, rebuked the conductor of the bus as to how he dared to take the fare from one of their associates. Those who intervened were beaten-up. They received injuries. The miscreants broke the side window panes of the bus by throwing stones. The complainant was also injured. This incident is undoubtedly an incident affecting public order. The assault on the conductor was pre-planned and pre-meditated. The FIR was registered under Sections 143, 341, 323 and 427 of the IPC. The order dated 30/01/2009 passed by the Additional Chief Judicial Magistrate, Khetri shows that so far as offences under Sections 323, 341 and 427 of the IPC are concerned, the accused entered into a

compromise with the complainant. Hence, learned Magistrate acquitted respondent - Mehar Singh and others of the said offences. The order further indicates that so far as offence of rioting i.e. offence under Section 147 of the IPC is concerned, three main witnesses turned hostile. Learned Magistrate, therefore, acquitted all the accused of the said offence. This acquittal can never be described as an acquittal on merits after a full fledged trial. Respondent - Mehar Singh cannot secure entry in the police force by portraying this acquittal as an honourable acquittal. Pertinently, there is no discussion on merits of the case in this order. Respondent - Mehar Singh has not been exonerated after evaluation of the evidence.

JUDGMENT

23. So far as respondent - Shani Kumar is concerned, the FIR lodged against him stated that he along with other accused abused and threatened the complainant's brother. They opened fire at him due to which he sustained bullet injuries. Offences under Sections 307, 504 and 506 of the IPC were registered against respondent - Shani Kumar and

others. Order dated 14/5/2010 passed by the Sessions Judge, Muzaffarnagar shows that the complainant and the injured person did not support the prosecution case. They were declared hostile. Hence, learned Sessions Judge gave the accused the benefit of doubt and acquitted them. This again is not a clean acquittal. Use of firearms in this manner is a serious matter. For entry in the police force, acquittal order based on benefit of doubt in a serious case of this nature is bound to act as an impediment.

24. In this connection, we may usefully refer to **Sushil Kumar**. In that case, the respondent therein had appeared for recruitment as a constable in Delhi Police Services. He was selected provisionally, but, his selection was subject to verification of character and antecedents by the local police. On verification, it was found that his antecedents were such that his appointment to the post of constable was not found desirable. Accordingly, his name was rejected. He approached the Tribunal. The Tribunal allowed the application on the ground that since the respondent had

been discharged and/or acquitted of the offence punishable under Section 304, Section 324 read with Section 34 and Section 324 of the IPC, he cannot be denied the right of appointment to the post under the State. This Court disapproved of the Tribunal's view. It was observed that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to the post under the State. This Court observed that though the candidate was provisionally selected, the appointing authority found it not desirable to appoint him on account of his antecedent record and this view taken by the appointing authority in the background of the case cannot be said to be unwarranted. Whether the respondent was discharged or acquitted of the criminal offences, the same has nothing to do with the question as to whether he should be appointed to the post. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. It was argued that **Sushil Kumar** must be distinguished from the facts of the instant case because the respondent therein had concealed

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

JUDGMENT

25. Reliance placed by the respondents on **Dhaval Singh** is misplaced. In **Dhaval Singh**, the respondent had not mentioned the fact that a criminal case was pending against him in the application form submitted by him on 21-27/8/1995 seeking post of a constable. He was provisionally selected and was interviewed pending verification of his

character. Before any order of appointment could be issued in his favour, he, realizing the mistake, wrote a letter to the Deputy Commissioner of Police on 15/11/1995 that a criminal case was pending against him and he had inadvertently not mentioned this fact in the application form. On the ground that the respondent had concealed a material fact, his candidature was cancelled on 20/11/1995. He was acquitted in the criminal case on 8/12/1995. On being so acquitted, he filed a representation before the Commissioner of Police which was turned down. He approached the Tribunal. The Tribunal set aside the cancellation of candidature of the respondent and the rejection of his representation. Aggrieved by this, the Commissioner of Police approached this Court. This Court confirmed the Tribunal's order basically on the ground that the order of cancellation dated 20/11/1995 did not show that the information furnished by the respondent vide his letter dated 15/11/1995 was communicated to the Commissioner of Police. There was no indication in the record that the competent authority had a look at the letter. Therefore, the

cancellation of candidature was without any proper application of mind and without taking into consideration all relevant materials. The Tribunal's order was upheld on the ground of non-application of mind by the Commissioner of Police to a vital fact. Besides, this Court also noted that pursuant to the Tribunal's order the respondent therein was already reinstated. This decision will have no application to the present case. Reliance on **Ghurey Lal** is also misplaced. There can be no debate over the observation made by this Court in that case that an accused is presumed to be innocent till proved guilty. These observations were made while dealing with a reversal of acquittal by the High Court. They are not relevant to the present case.

JUDGMENT

26. So far as respondent - Mehar Singh is concerned, his case appears to have been compromised. It was urged that acquittal recorded pursuant to a compromise should not be treated as a disqualification because that will frustrate the purpose of Legal Services Authorities Act, 1987. We see no

merit in this submission. Compromises or settlements have to be encouraged to bring about peaceful and amiable atmosphere in the society by according a quietus to disputes. They have to be encouraged also to reduce arrears of cases and save the litigants from the agony of pending litigation. But these considerations cannot be brought in here. In order to maintain integrity and high standard of police force, the Screening Committee may decline to take cognizance of a compromise, if it appears to it to be dubious. The Screening Committee cannot be faulted for that.

27. The respondents are trying to draw mileage from the fact that in their application and/or attestation form they have disclosed their involvement in a criminal case. We do not see how this fact improves their case. Disclosure of these facts in the application/attestation form is an essential requirement. An aspirant is expected to state these facts honestly. Honesty and integrity are inbuilt requirements of the police force. The respondents should not, therefore, expect to score any brownie points because of this

disclosure. Besides, this has no relevance to the point in issue. It bears repetition to state that while deciding whether a person against whom a criminal case was registered and who was later acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of doubt because the witnesses turned hostile or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future. This decision, in our opinion, can only be taken by the Screening Committee created for that purpose by the Delhi Police. If the Screening Committee's decision is not *mala fide* or actuated by extraneous considerations, then, it cannot be questioned.

28. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and

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

persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of trust reposed in it and must treat all candidates with even hand.

29. The Screening Committee's proceedings have been assailed as being arbitrary, unguided and unfettered. But, in the present cases, we see no evidence of this. However, certain instances have been pointed out where allegedly persons involved in serious offences have been recommended for appointment by the Screening Committee. It is well settled that to such cases the doctrine of equality enshrined in Article 14 of the Constitution of India is not attracted. This doctrine does not envisage negative equality (**Fuljit Kaur**). It is not meant to perpetuate illegality or fraud because it embodies a positive concept. If the Screening Committee which is constituted to carry out the object of the comprehensive policy to ensure that people with doubtful background do not enter the police force, deviates from the policy, makes exception and allows entry

of undesirable persons, it is undoubtedly guilty of committing an act of grave disservice to the police force but we cannot allow that illegality to be perpetuated by allowing the respondents to rely on such cases. It is for the Commissioner of Police, Delhi to examine whether the Screening Committee has compromised the interest of the police force in any case and to take remedial action if he finds that it has done so. Public interest demands an in-depth examination of this allegation at the highest level. Perhaps, such deviations from the policy are responsible for the spurt in police excesses. We expect the Commissioner of Police, Delhi to look into the matter and if there is substance in the allegations to take necessary steps forthwith so that policy incorporated in the Standing Order is strictly implemented.

30. Our attention is drawn to certain orders of this Court where, according to the respondents, special leave petitions filed by the State, arising out of similar fact situations, have been dismissed. It is not necessary for us to state that in

limine dismissal of special leave petition does not mean that this Court has affirmed the judgment or the action impugned therein. The order rejecting the special leave petition at the threshold without detailed reasons does not constitute any declaration of law or a binding precedent. This submission is, therefore, rejected.

31. In the ultimate analysis, we are of the view that the opinion formed by the Screening Committee in both these cases which is endorsed by the Deputy Commissioner of Police (Recruitment), Delhi, that both the respondents are not suitable for being appointed in the Delhi Police Force does not merit any interference. It is legally sustainable. The Tribunal and the High Court, in our view, erred in setting aside the order of cancellation of the respondents' candidature. In the circumstances, the appeals are allowed. The orders of the Delhi High Court impugned in both the appeals are set aside. The cancellation of candidature of the respondents - Mehar Singh and Shani Kumar is upheld.

.....J.
(G.S. Singhvi]

.....J.
(Ranjana Prakash Desai)

New Delhi
July 02, 2013.

SUPREME COURT OF INDIA



JUDGMENT