



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 4th OF NOVEMBER, 2024

WRIT PETITION No. 3205 of 2020

RAVI NARWARIYA

Versus

HOME DEPARTMENT AND OTHERS

Appearance:

Shri Dharmendra Chelawat- Advocate for the petitioner.

Ms. Mradula Sen- G.A. for the State.

ORDER

1. Heard finally, with the consent of the parties.
2. This petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking the following reliefs:-

“The petitioner most respectfully pray that the petition may kindly be allowed by issuing appropriate writ, order or direction to the respondents:-

(i) To quash the order Annexure P/1, thereby the petitioner may be included in the selection list and be posted on the post (GD) at posting unit 34th Battalion SAF Dhar as per order Annexure P/4 with all the consequential benefits and back wages.

(ii) To award the cost of the petition.

(iii) To grant any other relief, as may deemed proper by this Hon'ble court, in the facts and circumstances of the case, to the petitioner.”

3. The petitioner is aggrieved by the order dated 31.10.2018, whereby, the candidature of the petitioner, who was selected for the post of Constable, has been rejected after Police Verification, as it was found that although the petitioner had mentioned in his form that he was involved in a criminal case registered at Crime No.61/2007 under Sections 452, 294, 323, 506 and 34 of the IPC, but it which was tried against the petitioner as



Criminal Case No.2642/2007 under Sections 452 and 324/34 of the IPC only, which resulted in his acquittal on account of witnesses turning hostile. It is held in the impugned order that the acquittal of the petitioner does not fall within the category of clean or honourable acquittal, hence, he is unfit for the Government service.

4. In support of his submissions that such acquittal cannot be said to be not a clean or honourable one, Shri Chelawat, learned counsel for the petitioner has relied upon the decision rendered by the Coordinate Bench of this Court at Principal Seat Jabalpur in the case of *Archana Nagar Vs. State of MP and another* passed in *W.P.No.19628/2017* dated *16.3.2018* wherein also, in a similarly situation, this Court has held that it is not necessary that the criminal Court must opine that the accused is “honourably acquitted”. Thus, it is submitted that since the petitioner’s acquittal was a clean acquittal for all the practical purposes, it cannot be held that it was not a clean or honourable one.

5. A reply to the petition has also been filed, contending that a provision of appeal in Police Regulation from Section 262 to 275-A is also available to the petitioner for challenging the order. It is also submitted that although, in the character verification Form, the petitioner has mentioned that a criminal case is registered against him and also that he has been acquitted in the said case, however, in the case of *Commissioner of Police, New Delhi Vs. Meharsingh* passed in *Civil Appeal No.4842/2013* and, *Commissioner of Police Vs Shani Kumar*, passed in *Civil Appeal No.4965/2013*, reported as *(2013) 7 SCC 685*, the Supreme Court has held that, to get an appointment in the Police force it is a pre-condition for a person to have honesty of highest level and good moral character and thus, merely because the petitioner has been acquitted, he cannot be taken into



Police service, as provided under Regulation 53(c) of the Police Regulation, which provides that the pre-requisite for appointment in Police force is that he should be of good moral character and antecedents and, since the petitioner has been acquitted on technical grounds, his conduct is suspicious and is not liable to be inducted in the Police force. Thus, it is submitted that since the petitioner has not been given an honourable acquittal, no case for interference is made out.

6. Counsel for the respondent/State has also submitted that no case for interference is made out as apparently, the petitioner had used an iron rod to assault the complainant, who subsequently entered into a compromise with the petitioner and turned hostile and thus, his acquittal cannot be said to be honourable.

7. In rebuttal, counsel for the petitioner has drawn the attention of this Court to the judgement of acquittal dated 05.03.2018, wherein, the Trial Court has taken note of the fact that the complainant has turned hostile and has not supported the case of the prosecution and, has also stated that he suffered injuries on account of fall only. Thus, it is submitted that the petition may be allowed.

8. Heard. A perusal of the impugned order would reveal that the respondents have not clarified as to why they are treating the order of acquittal of the petitioner as not clean or honourable. However, they have tried to justify the same in their reply and it is trite that when the order which lacks reasoning is impugned, it cannot be supplemented in the reply filed by the State.

9. So far as the decision rendered by the Co-ordinate Bench of this Court at Principal Seat Jabalpur in the case of *Archana Nagar(Supra)* wherein,



Shri J..K.Maheshwari, J. (as his Lordship then was) is concerned, the relevant paras of the same areas under:-

“15. In view of the detailed discussion of the judgment of acquittal dated 7.4.2016 passed in Criminal Appeal No.2325/2006, there is no iota of doubt that the acquittal of petitioner/accused is a clean acquittal and it would come within the purview of full exoneration as specified under Fundamental Rule 54(2). In this regard, Paragraph No.25 of the judgment of Mehar Singh (supra) relied upon by the petitioner is relevant and it is reproduced as under:-

25. The expression "honourable acquittal" was considered by this Court in Inspector General of Police v S.Samuthiram reported in (2013) 1 SCC 598. In that case, this Court was concerned with a situation whether disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 IPC and under Section 4 of the Eve-Teasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in RBI vs Bhopal Singh Panchal reported in (1994) 1 SCC 541 where in somewhat similar fact situation, this Court upheld a bank's action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in the departmental proceedings. This court observed that the expressions "honourable acquittal", "acquitted of blame" and "fully exonerated" are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression "honourably acquitted". This Court expressed that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

16. In view of the foregoing discussion, in my considered opinion, the finding recorded by the Director General of Police, Bhopal in the impugned order Annexure P/7 dated 13.7.2017 incidentally stating that the acquittal of the petitioner is on the basis of the benefit of doubt, is unsustainable in law, therefore, the reasons to deny the benefit of payment of the wages do not find to be tenable in the eyes of law, hence the said finding stands set aside quashing the impugned order Annexure P/7 dated 13.7.2017. “

(Emphasis Supplied)



10. A perusal of the aforesaid order would reveal that the Supreme Court has not distinguished between a simple acquittal or clean/honourable acquittal and, since the petitioner has been acquitted, may be on account of witnesses turning hostile owing to compromise between the parties, it cannot be said that his acquittal was not an honourable acquittal.

11. So far as the impugned order is concerned, the same reads as under:-

“सहायक पुलिस महानिरीक्षक, (चयन/भर्ती) पु0मु0 भोपाल के आदेश क्रमांक/पु0मु0/2/चयन/स-3/659/2018 दिनांक 13/04/2018 के द्वारा वाहिनी में चयनित अभ्यर्थी रवि नरवरिया पिता श्री रमेशचन्द्र नरवरिया द्वारा प्रस्तुत चरित्र सत्यापन फॉर्म पुलिस अधीक्षक, जिला उज्जैन की ओर सत्यापन हेतु भेजा गया था। चरित्र सत्यापन प्रतिवेदन जांच थाना नीलगंगा, माधवनगर, महिला, अजाक थाना से कराया गया। अभ्यर्थी के विरुद्ध थाना माधवनगर पर 01, अपराध क्रं 61/2007 धारा 452, 294, 323, 506, 34 भादवि में पंजीबद्ध होकर चालन क्रं; 27/2007 एवं फो.मु.न. 2642/2007 माननीय मुख्य न्यायिक मजिस्ट्रेट जिला उज्जैन द्वारा प्रकरण में दोषमुक्त किया गया है।

पुलिस महानिरीक्षक, का.व्य. एवं सुरक्षा, म.प्र. भोपाल के पत्र क्रमांक/विशा/21/व्हर/2018-17(एफ-429-ए/2018) दिनांक 14-09-2018 एवं समनि (चयन/भर्ती) पु0मु0 भोपाल के पत्र क्रमांक/पु0मु0/चयन/स-3/1966-ए/2018 दिनांक 15-10-2018 के द्वारा अभ्यर्थी रवि नरवरिया पिता श्री रमेशचन्द्र नरवरिया द्वारा अपराध का उल्लेख अनुप्रमाणन फॉर्म में किया गया है, यद्धपि अभ्यर्थी को न्यायालय द्वारा दोषमुक्त किया गया है, किन्तु ऐसी दोषमुक्त clean or honourable acquittal की श्रेणी में नहीं आती है। अतः अभ्यर्थी को शासकीय सेवा के अयोग्य पाया गया है।

अतः अभ्यर्थी रवि नरवरिया पिता श्री रमेशचन्द्र नरवरिया के प्रकरण में उपरोक्त समोक्षा उपरान्त समिति द्वारा पुलिस सेवा के लिए अयोग्य पाये जाने का निर्णय लिये जाने से इसका नाम आरक्षक संवर्ग 2017 चयन सूची से पृथक किया जाता है।”

क्रं.	नाम पिता का नाम व पता	रोल नं.	जाति	चयनित पद
01	रवि नरवरिया पिता श्री रमेशचन्द्र नरवरिया, पता-24 आदर्श राजीव नगर कॉलोनी, उज्जैन (म0प्र0)	24155362	अजा	आरक्षक (जीडी)

12. It is apparent from the aforesaid order that the respondent has not clarified as to how the acquittal of the petitioner has become a



dishonourable one, as it is simply mentioned that, “ऐसी दोषमुक्त clean or honourable acquittal की श्रेणी में नहीं आती है।””

13. In the present case, the witness has stated that he suffered injuries on account of fall only. It is a common knowledge that in many such trivial criminal cases where false allegations are made against accused persons, which is a practice prevalent in India, many a times either compromise takes place or the witnesses turn hostile for whatever be the reasons, and the accused are acquitted of the offences. In such circumstances, this Court is also of the considered opinion that when the initial case itself was false, it is unjustified and unwarranted for the authorities to apply the test of honourable acquittal on a person falsely implicated. Thus, it cannot be said that the acquittal which has occasioned on account of witnesses turning hostile or compromise between the parties, is not an honourable acquittal.

14. Resultantly, this Court is of the considered opinion that the impugned order dated 31.10.2018 cannot be sustained in the eyes of law and is hereby quashed. The petitioner is directed to be included in the selection list and be posted on the post (GD) at posting unit 34th Battalion SAF, Dhar with all the consequential benefits, however, excluding the back wages, as the petitioner has not worked on the said post.

15. Let the aforesaid exercise be completed within a period of four weeks.

16. Accordingly, the petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE