

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.508 of 2017

This the 10th day of September, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)

Shri Rinku
S/o late Jagbir Singh, post Constable (exe.)
R/o H.No.928/7, Ashoka Colony,
Near Krishna Petrol Pump,
Line Par Bahadurgarh, Distt. Jhajjar.
Haryana.

....Applicant
(By Advocate : Shri Ajay Raj Singh)

VERSUS

1. Delhi Police,
Through Commissioner of Police,
Police Head Quarter ITO,
New Delhi.
2. Union of India
Through Home Secretary,
Ministry of Home Affairs,
New Delhi.

.....Respondents
(By Advocate : Ms. Pratima K. Gupta)

O R D E R (Oral)

This is the OA for compassionate appointment filed by the applicant in which he has prayed for the following reliefs:-

- “”a) Quash the Order 17.06.2016. Constable (Exe.) issued by the Addl. Deputy Commissioner of Police, recruitment cell, NPL, Delhi.
- b) Issue a direction to the respondents to consider him for the Constable (Exe.) male.
- c) Pass such further order/orders or directions as this Hon'ble Tribunal may deem fit and proper in the interest of justice.”

2. The relevant facts in this matter are that the applicant – Rinku applied for recruitment for the post of Constable (Exe.) Male in Delhi Police under the category of compassionate appointment, occurred due to death of late Constable Jagbir Singh. His name was approved for appointment by the Delhi Police establishment Board in its meeting held on 19.10.2015 subject to satisfactory verification of character and antecedents, medical fitness etc. On scrutiny of the antecedents report from the SP, Jhajjar, Haryana, it was found that the applicant was involved in a criminal case FIR No.77/2015 dated 8.4.2015 in which he was acquitted by the Court order dated 12.1.2016.

2.1 The applicant points out that he has disclosed this fact of his involvement in the above said criminal case in the relevant column of attestation form filled up by him on 21.12.2015. Despite this when his record was scrutinized, a show cause notice dated 22.3.2016 was issued to him and he replied to the said show cause notice vide his reply dated 1.4.2016 in which he has clearly stated that he was falsely implicated in the said case and the learned Court has recorded as such in its final order acquitting him on 12.1.2016. Despite this, he was still held not fit to be appointed. Counsel draws attention to the fact that he has a honourable acquittal and hence, the impugned show cause notice be quashed and his request for appointment on compassionate ground be acceded to.

3. Learned counsel for the respondents agrees with the facts as narrated by the applicant but put special emphasis on the fact that

the case of the applicant for appointment on compassionate ground was examined by the Screening Committee duly constituted by the CP/Delhi consequent upon applicant's acquittal in above said criminal case to access his suitability for the post in question in view of the judgment of Hon'ble Apex Court dated 4.10.1996 in Civil Appeal No.13231 of 1996 (arising out of SLP (Civil) No.5340 of 1996) – DAD Vs Sushil Kumar dated 24.11.2010 in Civil Appeal No.9913 of 2010 (arising out of SLP (Civil) No.16989 of 2006) – Daya Shankar Yadav Vs. Union of India, due to involvement in criminal cases. Moreover, the Hon'ble Supreme Court of India recently in Civil Appeal No.4842/2013 – Commissioner of Police/Delhi vs. Mehar Singh and Civil Appeal No.4965/2013 – Commissioner of Police/Delhi vs. Shani Kumar has observed that "*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 been 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.* Hence, the respondents states that they have committed no illegality in turning down the reply to the show cause notice.

4. In rejoinder, the applicant states that the Hon'ble Supreme Court has in the case of **Sunil Kumar Rai** (Civil Appeal No.23192/2012) and in cases relied upon by the respondents observed that *a candidate wishing to join the police force must be a person of utmost rectitude. He must have been 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.* In this context, he draws attention to the fact that while applying for compassionate appointment, the applicant had fairly stated the fact of the matter under prosecution before the learned Court and he did not in any way tried to hide the said facts of the matter. Further he draws attention to the order of the Judicial Magistrate First Class, Bahadurgarh, who in its order dated 12.1.2016 found as follows :-

“In the light of aforesaid discussion & findings, this court is of the view that the prosecution has miserably failed to bring home the guilt against the accused persons as the prosecution has failed to establish the identity of the accused persons. Hence, the accused are hereby acquitted of the charges leveled against him. The bail bounds and surety bonds of the accused are extended till the period of six months in compliance of Section 437 A Cr.P.C. The case property be disposed of under rules after awaiting the result of appeal/revision if any. File be consigned to record room after due compliance.”

4.1 Counsel further submits that in view of the above, it should not have been concluded by the Screening Committee that he was a person who was acquitted of the offences as the main PWs

complainant and eye-witnesses did not support the prosecution version and turned hostile, may be due to pressure from the accused persons. But the allegation is of grievous nature relating to sexual exploitation of a woman. The case is of serious nature like house tress, physical contact and advance involving unwelcome and explicit sexual overtures, exploitation and criminal intimidation. The applicant's involvement in such type of crime shows his bully type nature and propensity in indulging crime without fear of the law. The said Committee also observed that a candidate having no respect for women has no place in a law enforcing agency and in a disciplined force like Delhi Police and not recommended his name for appointment to the post of Const. (Exe.) in Delhi Police.

5. Heard both the parties and perused the records.

6. In this case, the applicant has been honourably acquitted in the matter which he himself disclosed as to be pending against him. In fact, the learned Court in its order dated 12.1.2016 has clearly found that prosecution miserably failed to establish on record beyond the hilt that the accused persons were the ones who threatened to kill and misbehaved with the complainant. Once the identity of the accused persons had not been established beyond the hilt, the charges leveled against them under Section 451, 354A, 385 & 506 IPC cannot be proved in any manner.

7. It is further noticed that no appeal/revision has been filed in the said matter. Hence, after such a clear cut findings of the learned Court that even the fact of identity of the alleged accused

persons who had threatened the complainant could not be proved, that the applicant in this case involved in the said case. As such it is found to be patently incorrect to debar the applicant for appointment on compassionate ground, once he has been clearly acquitted. Hence, the impugned order dated 17.6.2016 is quashed and set aside and the respondents are directed to process the remaining parameters like medical suitability etc. for applicant's appointment to the post of Constable (Ex.) Male on compassionate ground in Delhi Police. This exercise shall be completed within a period of 90 days from the date of receipt of certified copy of this Order.

8. In the result, the instant OA is allowed in terms of the directions as given to the respondents in preceding paragraph. There shall be no order as costs.

**(Nita Chowdhury)
Member (A)**

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