



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Civil Writ Petition No. 756/2022

Shankar Lal S/o Sh. Nathu Lal, Aged About 26 Years, Mukam  
Kalumbari, Post Varli, Tehsil Pindwara, District Sirohi.

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department  
Of Home Affairs, Government Of Rajasthan, Jaipur.
2. The Director General Of Police, Headquarters, Jaipur.
3. The Inspector General Of Police, Jodhpur Range,  
Jodhpur.
4. The Superintendent Of Police, Sirohi.

-----Respondents

For Petitioner(s) : Mr. Sushil Solanki.

For Respondent(s) : Mr. Sandeep Soni.

**HON'BLE MR. JUSTICE ARUN MONGA**  
**Order (Oral)**

**18/11/2024**

1. Petitioner herein is assailing an order dated 13.12.2021  
(Annex.11) passed by the Superintendent of Police, Sirohi, vide  
which his candidature for the post of Constable pursuant to an  
advertisement dated 04.12.2019, was rejected.

2. Succinctly speaking, relevant facts, as pleaded in the petition  
are as follows:

2.1. The Respondent Department issued an advertisement dated  
04.12.2019 inviting applications for appointments on the 773  
posts of Constable (GD) and Constable Driver in various districts,  
The petitioner, being eligible, also applied for the same for District  
Sirohi under the ST category (TSP).



2.2. He successfully passed the written examination held on 08.11.2020. Thereafter, the petitioner was called for the physical efficiency test, which was held on 10.04.2021. The petitioner cleared the physical efficiency test as well.

2.3. In the interregnum, after the issuance of the advertisement, an FIR was registered against the petitioner on 11.04.2020 (Annex.7) for alleged offences under Sections 143 & 323 IPC. Subsequently, a challan was filed against the petitioner, and after the trial, the petitioner was acquitted vide a judgment dated 31.08.2021 (Annex.8).

2.4. Meanwhile, by order dated 18.04.2021 (Annex.9), the petitioner was called for document verification. Notably, the petitioner had disclosed the information about the registration of the case before and during the document verification. However, despite this disclosure, when the petitioner was not granted appointment, the petitioner submitted a representation on 20.09.2021 (Annex.10).

2.5. Notwithstanding, the candidature of the petitioner was rejected by an office order dated 13.12.2021 (Annex.11). Hence, this petition.

3. The stand taken by the respondents in their reply inter alia is that in his application form in the column "Whether any FIR has ever been lodged against you," the petitioner responded by a "NO".

3.1. Also, it is only at the time of document verification, the petitioner disclosed the particulars of the criminal case against him. He thus indulged in concealment prior thereto at the time of applying for the job. Accordingly, as per para 8 of the



advertisement and Circular No. 1300 dated 28.03.2017, the matter was forwarded to the headquarters for consideration by the department's committee. It was decided, vide order dated 26.07.2021, that the petitioner was not fit for appointment to the post of constable under Rule 13(2) of the Rules of 1989, as a criminal case was pending against the petitioner.

3.2 After trial, the learned Court below, by order dated 31.08.2021, though acquitted the petitioner, but not honorably. Rather, he was acquitted due to lack of evidence. Therefore, petition deserves to be dismissed as it is devoid of merit.

4. In the aforesaid backdrop, I have heard learned counsel for the petitioner as well as learned counsel for the respondents and have gone through the case file. Rival arguments have been addressed on the lines of the respective pleadings of the parties.

5. In sum and substance, what boils down for adjudication lies in a very narrow compass i.e.

- (A) Whether the petitioner is disentitled to seek benefit of his performance despite his acquittal in the criminal proceedings owing to which his candidature was withheld?
- (B) Whether the petitioner indulged in any concealment overt or covert at the time of filling up of his application form for the post in question pursuant to the advertisement dated 04.12.2019?

6. Adverting to the second question first i.e. whether or not there is any concealment;

6.1 The answer to the said question is not far too seek in view of the specific undisputed averment contained in the petition that the advertisement was issued on 04.12.2019 and the last date of



filling up the application form for the post in question was 20.01.2020 and the FIR was registered against the petitioner on 11.04.2020 for the alleged offences under Section 143 and 323 of IPC. Clearly the chronology is self-revealing and reflects that petitioner did not indulge in any concealment as on the date of his application, which is the cut off date to provide all relevant information. Furthermore, during document verification, the petitioner explicitly disclosed the details of the FIR in good faith. Thus, there is no evidence of willful misrepresentation or deceit. The answer to the second question is accordingly in negative.

7. Moving on now to the first question i.e. Whether the petitioner is disentitled to seek benefit of his performance despite the fact that he has been acquitted in the criminal proceedings owing to which his candidature was withheld;

7.1 The said question also has also to be necessarily answered in negative, in view of the fact that an acquittal is an acquittal, on whatever ground. That aside even the equity is loaded in favour of the petitioner. It was in this background, petitioner was accorded interim protection by an order dated 25.01.2022 passed by a Coordinate Bench of this Court in the following terms:

*“None has joined on VC on behalf of the respondents in both the rounds.*

*Reply to the petition is awaited.*

*List the petition on 3.2.2022.*

*In the meanwhile, the respondents shall not fill up the post, which has become vacant on account of cancellation of petitioner’s candidature by order dated 13.12.2021.”*

8. Be that as it may, the petitioner has been acquitted of all charges by a competent court of law. Trite it may sound, but on



the principle of presumption of innocence, an acquittal restores the petitioner's status as a law-abiding citizen. The respondents' stand that the acquittal was not "honorable" is merely speculative. The acquittal remains valid unless set aside in appeal. No such appeal was filed by the state. Denying the petitioner an appointment solely due to an FIR/trial, in which he has been acquitted, amounts to punishing him.

9. In this context reference may be had to another judgment dated 13.05.2024 rendered by me in somewhat similar circumstances in case titled **Rajendra Meena Vs. State of Rajasthan**<sup>1</sup>. Relevant thereof, being apposite, is reproduced hereinbelow:

*“12. Having regard to the aforesaid, there is no quibble about the ratio laid down by the Supreme Court in as much as a person who wishes to join the police force must be having an impeccable character and integrity and if the offence committed involves any moral turpitude, then the employer is entitled to reject the candidature given the sensitive nature of job which the disciplinary forces are meant for.*

*13. However, here is a case where the petitioner was involved in an FIR much later after initiation of his selection process. As it turned out due to the delay on the part of the respondents, before he could be appointed, he was struck with the misfortune of being implicated in the FIR in question.*

*14. Assuming there was no delay on issuing him appointment letter, he would have been in service and in such a situation, naturally, mere registration of an FIR would not have resulted in his ouster subject, of course, to the discretion of the employer to institute appropriate disciplinary proceedings.*

*15. Trite it is that an employer has the discretion to simultaneously proceed against an employee and regardless of the acquittal, in case, the employee is indicted in the civil proceedings, the outcome thereof may render him in a situation where the defence of being acquitted in the criminal proceedings is insignificant.*

*16. There is no gainsaying to observe that mere registration of an FIR does not reduce a citizen to the status of either a*

<sup>1</sup> Rajasthan High Court, Jodhpur – S.B. Civil Writ Petition No.15957/2021



*convict or not having a good character. Every citizen is presumed innocent unless proved guilty. In the case in hand it so transpires that the alleged role attributable to the petitioner is not of such a nature so as to either impinge on the nature of duties to be performed by him or otherwise, even bordering moral turpitude. It is stated that the role attributed to petitioner was that merely a cartridge was found in his pocket. It was not a case as if he were carrying the gun, which concededly was in possession of the principal accused.*

17. XXXX

18. XXXX

19. *Furthermore, in the present case, the petitioner has simply been rejected on the ground that his acquittal is not an honourable acquittal.*

20. *The controversy in this respect has already been put to rest by my earlier judgment in a case titled Sukhjit Singh & Ors. vs. State of Punjab & Anr. (CWP No. 9808 of 2003), decided on 13.08.2019, which I rendered while being puisne Judge of Punjab and Haryana High Court, which in turn is based on Division Bench judgments rendered by both Punjab and Haryana as well as Madras High Court. For ready reference, relevant thereof is reproduced hereinbelow:-*

*“12. Every acquittal is honourable acquittal. There is nothing in the Criminal Procedure Code nor is there any rule of criminal jurisprudence for treating the effects and consequences of an honourable acquittal from an acquittal on failure of the prosecution to prove the case beyond reasonable doubt.*

*13. A Division Bench of this Court in a case titled as Shashi Kumar Vs. Uttar Haryana Bijli Vitran Nigam and another, 2005 (1) SCT 576 relying in turn on another Division Bench of Madras High Court has held that the terms honourable acquittal or fully exonerated unknown in the Criminal Jurisprudence. His Lordship S.S.Nijjar, J. (as he then was of this Court) speaking for the Division Bench observed as below:-*

*7. In any event, the terms "honourable acquittal" or "fully exonerated" are unknown in the Code of Criminal Procedure or in Criminal Jurisprudence. These terms came up for consideration before a Division Bench of the Madras High Court in the case of Union of India Vs. Jayaram, AIR 1960 Madras 325.*





*Rajammannar, C.J. Delivering the judgment of the Division Bench observed as under:-*

*There is no conception like "honourable acquittal" in Criminal Procedure Code. The onus of establishing the guilt of accused is on the prosecution, and if it fails to establish the guilt beyond reasonable doubt, the accused is entitled to be acquitted.*

*Clause (b) of Article 193 of the Civil Service Regulations which says that when a Government servant who was under suspension is honourably acquitted, he may be given the full salary to which he would have been entitled if he had not been suspended applies only to the case of departmental Inquiry.*

*Where the servant was suspended because there was a criminal prosecution against him, and he was acquitted therein, and reinstated he is entitled under the general law, to the full pay during the period of his suspension. To such a case Article 193(b) does not apply."*

*8. The aforesaid judgment of the Madras High Court was considered and followed by this Court in the case of Jagmohan Lal Vs. State of Punjab through Secy, to Punjab Govt. Irrigation and others, AIR 1967 (54) Punjab and Haryana 422 (punjab). In that case, on acquittal, the petitioner was reinstated in service, but this period of suspension was not treated as the period spent on duty. He had, therefore, filed writ petition under Articles 226/227 of the Constitution of India claiming that he was entitled to full pay and allowances for the period of his suspension. Considering the impact of Rules 7.3, 7.5 and 7.6 of the Punjab Civil Services Rules Vol.I Part-1, it was observed as follows:-*

*(2) XXX XXX XXX*

*The interpretation which has been put by the Government on the rule is incorrect. The blame which attached to the petitioner was that there was a criminal charge against him under which he was standing his trial. The moment he is acquitted of the charge, he is acquitted of the blame. In criminal law, the Courts are called upon to decide whether the prosecution has succeeded in bringing home the guilt to the accused. The moment the Court is not satisfied regarding the guilt of the accused, he is acquitted. Whether a person is acquitted after being given a benefit of doubt or for that reasons, the result is that*





*his guilt is not proved. The Code of Criminal Procedure does not contemplate honourable acquittal. The only words known to the Code are 'discharged' or 'acquitted'. The effect of a person being discharged or acquitted is the same in the eyes of law. Since, according to the accepted notions of imparting criminal justice, the Court has to be satisfied regarding the guilt of the accused beyond a reasonable doubt, it is generally held that there being a doubt in the mind of the court, the accused is acquitted.*

*I am, therefore, quite clear in my mind that the intention underlying Rule 7.5 can be no other except this" the moment the criminal charge on account of which an officer was suspended fails in a court of law, he should be deemed to be acquitted of the blame. Any other interpretation would defeat the very purpose of the rule. It is futile to expect a finding of either honourable acquittal or complete innocence in a judgment of acquittal. The reason is obvious; the criminal courts are not concerned to find the innocence of the accused. They are only concerned to find whether the prosecution has succeeded in proving beyond a reasonable doubt the guilt of the accused."*

10. Reliance by the respondents on Rule 13(2)(ii) of the Rules of 1989, as amended, is completely misplaced. This rule does not allow for arbitrary rejection without considering the specific circumstances of each case. The charges under Sections 323 (simple hurt) and 143 (unlawful assembly) are not heinous or grave offenses. They do not indicate moral turpitude or a serious threat to law and order. In any case petitioner stands acquitted of all charges. An acquitted individual cannot be stigmatized for having been part of a criminal trial in past. Moreover, denying an employment opportunity to an accused who is acquitted is against the principle of reintegration of such individuals into society. Being so I see no reason on what grounds the respondents are pleading that the petitioner is not entitled to any benefit of the acquittal.





11. As an upshot, the petition is allowed. The order dated 13.12.2021 (Annex.11) is set aside. The respondents are directed to issue appointment letter to the petitioner within a period of 30 days of his approaching the respondents with a web-print of the instant order.

12. Pending application(s), if any, stand disposed of.

**(ARUN MONGA),J**

52-Sumit/-

Whether Fit for Reporting: Yes / No