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**(2025) 12 CAT CK 0003**

**Central Administrative Tribunal**

**Case No:** Original Application No. 330, 01196 Of 2025

Sandeep Kumar

APPELLANT

Vs

Union Of India And Others

RESPONDENT

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**Date of Decision:** Dec. 8, 2025

**Acts Referred:**

- Administrative Tribunals Act, 1985 - Section 19
- Indian Penal Code, 1860 - Section 323, 354Ka, 394, 427, 452, 504, 506

**Hon'ble Judges:** Om Prakash VII, Member (J); Manju Pandey, Member (A)

**Bench:** Division Bench

**Advocate:** A.D. Singh, Anil Kumar

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**Judgement**

Om Prakash VII, Member (J)

1. Heard Shri A.D. Singh, learned counsel for the applicant and Shri Anil Kumar, learned counsel for the respondents on interim relief.

2. The present O.A has been filed by the applicant under section 19 of the Administrative Tribunal Act, 1985 seeking following main reliefs:-

***“(i) Quash the impugned order dated 13.10.2025 passed by the respondent No. 3 (Annexure A-1 to Compilation No. 1).***

***(ii) Direct the respondents to appoint the applicant on the selected post and permit him to join the duty forthwith with all consequential benefits.***

***(iii) Grant such other relief as the applicant might be found entitled to, in the facts and circumstances of the case.***

***(iv) Allow the original application with cost of the proceeding in favour of the applicant from the respondents”.***

3. Interim relief claimed by the applicant is as follows:-

***“The Hon’ble Tribunal be pleased to stay the effect and operation of the impugned order dated 13.10.2025 passed by the respondent NO. 3 with a further direction to permit the applicant to join the duty on the selected post forthwith and or keep the one post vacant with a view to secure the end of justice, failing which the applicant shall suffer irreparable loss and injury”.***

4. Learned counsel for the applicant submits that the applicant had applied for the post of Assistant Loco Pilot and Technician pursuant to advertisement No. CEN 01/2018. He was successful at all stages, including medical examination and document verification. A panel of shortlisted candidates was also issued, in which the applicant’s name was included. It is next submitted that no criminal case was pending against the applicant at the time of filling the application form. For the first time, the applicant was required to fill the declaration/attestation form before issuance of offer of appointment. Referring to Annexure A-7, learned counsel submits that the applicant truthfully disclosed details of the criminal case, and there was no suppression on his part. On 13.10.2025, the applicant’s candidature was cancelled on the ground that, during police verification, a criminal case No. 740/2020 under Sections 323/504/506/427/354Ka/452/394 IPC was found pending against him. It is further submitted that the said criminal case was registered in 2020, whereas the advertisement is of 2018. The applicant has truthfully disclosed the pending case in the attestation form. Therefore, cancellation of the candidature is contrary to the settled principles of law. It is also submitted that the chargesheet has been filed only for offences under Sections 323/504/506 and 427 IPC after investigation. Concerned Magistrate has also taken cognizance only for these offences. Thus, mentioning of Sections 354Ka/452/394 IPC in the impugned order is factually incorrect. Learned counsel further submits that the applicant ought to have been allowed to join the post, subject to the condition that he will file the acquittal order upon conclusion of the criminal case. To substantiate his arguments, learned counsel relies on the following judgments:

***(i) Avtar Singh vs. Union of India & Ors., 2016 Supreme (SC) 578;***

***(ii) Anuj Kumar vs. State of U.P. & Anr., Special Appeal Defective No. 871 of 2021, decided on 04.05.2022 by the Hon’ble Allahabad High Court.***

Learned counsel for the applicant further submits that the interim prayer be allowed and the respondents be directed to permit the applicant to join duty, as the pending criminal case is of a trivial nature. It is also argued that in an identical situation, the Hon’ble Allahabad High Court in *Anuj Kumar* (supra) case set aside the rejection order and directed issuance of an appointment letter to the candidate concerned.

5. Learned counsel for the respondents argues that although the applicant has disclosed the pending criminal case in the attestation form, it is for the employer to decide whether the candidate is fit for appointment or not. It is further submitted that Crime No. 740/2020 was registered under Sections 323/504/506/427/354Ka/452/394 IPC, therefore, mentioning these

sections in the impugned order itself cannot be faulted. Referring to the pleadings, it is also argued that the applicant has not truthfully disclosed all material facts in the O.A. Learned counsel also submits that no illegality or perversity has been committed by the competent authority in cancelling the candidature. The applicant does not have any vested right to compel the employer to appoint him. No prima facie case is made out for grant of interim relief. It is further argued that the first part of the interim prayer, seeking direction to allow the applicant to join duty if allowed will amount to grant the final relief at the interim stage, which is impermissible. As regards the prayer to keep one post vacant, it is submitted that the advertisement is of 2018 and considerable time has passed, hence, such direction should not be issued. Learned counsel for the respondents has also placed reliance on the case of **Anil Bhardwaj vs. High Court of Madhya Pradesh & Ors., 2020 AIR SC 4971**.

6. We have considered the rival submissions advanced by the learned counsel for the parties and gone through the entire records carefully.

7. It is not disputed that the applicant had applied pursuant to advertisement No. CEN 01/2018 and was successful at all stages of the selection process, including medical and document verification. It is also evident that the applicant disclosed the pendency of the criminal case in the attestation form. The police, after investigation, submitted a chargesheet only under Sections 323/504/506 and 427 IPC, and the concerned Magistrate has taken cognizance accordingly. Offences under Sections 354Ka/452/394 IPC were not found. Vide impugned order respondents cancels the candidature merely on the ground of the pendency of a criminal case.

9. If the submissions raised across the bar are compared with the guidelines laid down in the Avtar Singh (supra) case, we find that a prima facie case is made out at this stage for issuing a direction to the respondents to keep one post vacant in favour of the applicant till the next date of listing.

10. As regards the first interim prayer seeking direction to issue an appointment letter provisionally, we find that the interim relief and the main relief are identical in nature. Granting such relief at this stage, without exchange of pleadings, would amount to allowing the O.A. itself, which is impermissible. Accordingly, the first interim prayer cannot be allowed.

11. The interim prayer for keeping one post vacant till the next date of listing is allowed. The competent authority among the respondents is directed to keep one post vacant, if it has not already been filled, in favour of the applicant till the next date of listing.

12. Matter requires consideration.

13. **Admit,**

14. Six weeks time is allowed to the respondents to file counter affidavit, One week thereafter for filing the rejoinder affidavit.

15. List this case on 05.02.2026.