
**Union Territory, Chandigarh Administration and Ors. Vs Pradeep Kumar
and Another**

Civil Appeal No 67 of 2018 (Arising out of SLPÂ© No 20750 of 2016)

Court: Supreme Court Of India

Date of Decision: Jan. 8, 2018

Acts Referred:

Indian Penal Code, 1860 " Section 34, Section 307, Section 323, Section 148, Section 325,
Section 506

Citation: AIR 2018 SC 376 : (2018) 1 SCR 112 : (2018) 1 SCC 797 : (2018) 1 JT 148 : (2018) 1
Scale 153 : (2018) 1 JLJR 163 : (2018) 1 KLT 384 : (2018) 1 MLJ 873 : (2018) 1 MPWN 98 :
(2018) 1 PLJR 339 : (2018) 1 SCC(Cri) 504 : (2018) 1 SCC(L&S) 149 : (2018) 1 UPLBEC

Hon'ble Judges: R. Banumathi, Uday Umesh Lalit

Bench: Division Bench

Final Decision: Allowed

Judgement

1. Leave granted,,,

2. The question involved in these appeals is whether the candidature of the respondents who had disclosed their involvement in
the criminal cases,,,

and also their acquittal could be cancelled by the Screening Committee on the ground that they are not suitable for the post of
constable in,,,

Chandigarh Police and whether the court can substitute its views for the decision taken by the Screening Committee. Since the
facts and issues are,,,

almost identical in all these appeals, they were heard together and shall stand disposed of by this common judgment. For
convenience, we would",,,

deal with the facts in appeal arising out of SLP(C) No. 20750 of 2016,,,

3. On 14.03.2010, an advertisement was issued by UT Chandigarh Police through its Deputy Inspector General of Police inviting
applications",,,

from the candidates to fill up 1200 temporary posts of Constable (Executive) in Chandigarh Police with essential qualification as
prescribed in the,,,

advertisement with instructions for filling online application form. The recruitment was to be done as per guidelines thereon as well as standing,,,

order governing the recruitment of constables. Guideline No.2(A)(a) deals with the circumstances when the candidate does not disclose the factum,,,

of his involvement in the attestation form and the same is found subsequently from the verification report. The candidature of such candidates will,,,

be cancelled as per aforesaid guideline without making any reference to any Committee for further probe into the conduct of the candidate. In,,,

Guideline No.2(A)(b), it is prescribed that if a candidate has disclosed his involvement in some criminal case in the attestation form, then such case" ,,,

will be referred to Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the case is under,,,

investigation, trial or resulted in conviction or acquittal." ,,,

4. Respondents were declared successful in the recruitment for the post of Constable (Executive) in Chandigarh Police after clearing the Physical,,,

Efficiency Test, Physical Measurement Test, written test and interview. However, the respondents were denied the employment on the ground that" ,,,

the respondents had been prosecuted in a criminal trial for the offences under Section 323 IPC and Section 506 read with Section 34 IPC and,,,

were acquitted by the trial court vide judgment dated 29.01.2010 giving them benefit of doubt. The case was referred to the Committee headed by,,,

Senior Superintendent of Police and it was found that the respondents were not suitable for appointment as Constables in the Chandigarh Police.,,,

5. Aggrieved, respondents filed OA before CAT. CAT vide order dated 24.07.2012 allowed the OA and set aside the orders of the Screening" ,,,

Committee and directed the competent authority to consider the names of the respondents for appointment to the post of Constable. The State,,,

filed writ petition before the High Court which came to be dismissed for all the respondents except Ombir holding that there was no concealment,,,

of criminal antecedents. Being aggrieved, the State has preferred these appeals." ,,,

6. Contention of the appellant is that acquittal of a person does not entitle him to be appointed as a matter of right and the appointing authority may,,,

still find such a person unfit to be appointed to the post. It was urged by the appellant that even though the respondents were acquitted in the,,,

criminal case, the appointment of the respondents to the post of Constable in Chandigarh police which is a disciplined force, was found not" ,,,

desirable by the appointing authority. It was submitted that the respondents were not honourably acquitted of the offences and the acquittal was,,,

only based on the extension of benefit of doubt. Contention of the appellant is that the post of Constable in disciplinary force demands an,,,

impeccable integrity and track record besides good character and suitability. Further contention is that the court cannot overreach the jurisdiction,,,

of the Screening Committee by substituting its own view in the decision of the said Committee and hence, the impugned judgment of the High" ,,,

Court and the Tribunal is not sustainable.,,,

7. Per contra, contention of the respondents is that the criminal case against the respondents was a case of "no evidence" and the acquittal of the",,,

respondents is an honourable acquittal and the same cannot be termed to be the case of "benefit of doubt". Moreover, respondents had fairly",,,

disclosed the factum of facing criminal trial by giving complete details while applying for the job and there was no suppression on the part of the",,,

respondents. On behalf of the respondents, much reliance was placed upon Joginder Singh v. Union Territory of Chandigarh and others 2015(1)",,,

S.C.T. 87 : (2015) 2 SCC 377.,,,

8. On the basis of the aforesaid rival contentions urged on behalf of both the parties, the following points arise for consideration:-",,,

(i) Whether the contention of respondents that they were honourably acquitted and that they should not be deprived of being appointed to",,,

the post of Constable is acceptable?,,,

(ii) Whether the High Court was right in setting aside the decision of the Screening Committee and directing the authorities to consider the",,,

respondents to the post of Constable in the disciplined police force?,,,

9. On 23.06.2010, the Inspector General of police, UT Chandigarh issued Standing Order No.44 of 2010 laying down the guidelines to consider",,,

cases of candidates selected in Chandigarh Police on having found involvement in criminal cases in the past. This standing order deals with the",,,

cases of candidates before issuance of appointment and after issuance of appointment and joining. Relevant portion of the said Guidelines reads as",,,

under:-",,,

GUIDELINES",,,

(A) CASES BEFORE ISSUE OF APPOINTMENT",,,

(a) The candidature will be cancelled in case the candidate does not disclose the fact of his involvement and/or arrest in criminal case(s)",,,

complaint case(s), preventive proceedings etc. in the attestation form and the fact is subsequently found out from any verification report",,,

received from the District authorities or for any/other source.,,,

(b) If a candidate has disclosed his involvement and/or arrest in criminal cases(s), complaint case(s), preventive proceedings etc. the case",,,

will be referred to the Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the",,,

case is under investigation, trial or decided in conviction or acquittal.",,,

..... """,,,

In Guideline 2(A)(b), it is prescribed that if a candidate has disclosed his involvement in some criminal case in the attestation form then such case",,,

will be referred to Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the case is under",,,

investigation, trial or decided in conviction or acquittal. In the present case, in all the cases of respondents, the aforesaid situation arises. On",,,

noticing the acquittal of the candidates, the cases of respondents were referred to Screening Committee. The Screening Committee carefully",,,

examined the cases of the respondents and the reasonings for their acquittal and the candidature of the respondents were rejected finding them not,,,

suitable.,,,

10. The acquittal in a criminal case is not conclusive of the suitability of the candidates in the concerned post. If a person is acquitted or discharged",,,

it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Unless it is an honourable acquittal, the candidate",,,

cannot claim the benefit of the case. What is honourable acquittal, was considered by this Court in Deputy Inspector General of Police and",,,

Another v. S. Samuthiram 2013(1) R.C.R.(Criminal) 329 : 2013(1) S.C.T. 115 : (2013) 1 SCC 598, in which this Court held as under:-",,,

24. The meaning of the expression ""honourable acquittal"" came up for consideration before this Court in RBI v. Bhopal Singh Panchal",,,

1994(1) S.C.T. 505 : (1994) 1 SCC 541. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable",,,

acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an",,,

employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions ""honourable acquittal"", ""acquitted of",,,

blame"", ""fully exonerated"" are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial",,,

pronouncements. It is difficult to define precisely what is meant by the expression ""honourably acquitted"". When the accused is acquitted",,,

after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the,,,

accused, it can possibly be said that the accused was honourably acquitted.""",,,

11. Entering into the police service required a candidate to be of good character, integrity and clean antecedents. In Commissioner of Police, New",,,

Delhi and Another v. Mehar Singh 2013(4) S.C.T. 311 : (2013) 7 SCC 685, the respondent was acquitted based on the compromise. This Court",,,

held that even though acquittal was based on compromise, it is still open to the Screening Committee to examine the suitability of the candidate and",,,

take a decision. Emphasizing upon the importance of character and integrity required for joining police force/discipline force, in Mehar Singh case",,,

this Court held as under:-",,,

23. 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.,,,

24. 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 enquiry 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 a 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 AIR 1964 SC 787 this Court has taken a view that departmental proceedings can proceed even,,,

though a person is acquitted when the acquittal is other than honourable.,,,

25. The expression ""honourable acquittal"" was considered by this Court in S. Samuthiram 2013(1) R.C.R.(Criminal) 329 : 2013(1) S.C.T.",,,

115 : (2013) 1 SCC 598. 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 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 v. Bhopal Singh Panchal 1994(1) S.C.T. 505 : (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.",,,

.....,,,

33. So far as respondent Mehar Singh is concerned, his case appears to have been compromised. It was urged that acquittal recorded",,,

Party

Name/SLP No.",Allegations,Reasons for acquittal,"Consideration by the

Screening Committee

Pradeep

Kumar SLP(C)

No.20750/16","â€¢ FIR under Sections 148, 149,

323 and 506 IPC.

â€¢ Appeared outside the class room

of the complainant therein along

with other people.

â€¢ Carrying lathis and axe and

started beating the complainant

and other persons of his village.",â€¢ PW-1 (complainant) and PW-2

turned hostile and denied all the

contents of complaint.

â€¢ Witnesses admitted their signature

on complaint but said that they were

obtained on blank papers.

â€¢ IO did not appear.

â€¢ Therefore the trial was closed as no

useful purpose could be served by

examining the remaining witnesses.",â€¢ Accused acquitted

because star witnesses

turned hostile and thus

accused got benefit of

doubt.

â€¢ Appears that

witnesses have been

won over.

â€¢ Accused 19 years age

at the time of

commission of offence.

Narender

Kumar SLP (C)

No.20750 /16", "â€¢ FIR under Sections 148, 149,

323 and 506 IPC.

â€¢ Appeared outside the class room

of the complainant therein along

with other people.

â€¢ Carrying lathis and axe and

started beating the complainant

and other persons of his village.", "â€¢ PW1 (complainant) and PW2 turned

hostile and denied all the contents of

complaint.

â€¢ Witnesses admitted their signature

on complaint but said that they were

obtained on blank papers.

â€¢ IO did not appear.

â€¢ Therefore the trial was closed as no

useful purpose could be served by

examining the remaining witnesses.", "â€¢ Accused acquitted

because star witnesses

turned hostile and thus

accused got benefit of

doubt.

â€¢ Appears that

witnesses have been

won over.

â€¢ Accused 21 years age

at the time of

commission of offence.

Party Name/

SLP No.",Allegations,Reasons for acquittal,"Consideration by the

Screening Committee

""

""

A j a y Kumar

SLP (C)

No.23855 /16","â€¢ FIR under Sections 323, 307 and

34 IPC.

â€¢ Inflicted severe injuries to the

sons of the complainant by

inflicting blows with hockey sticks

and kicks and fist blows to them.", "â€¢ Delay of four days in lodging the

complaint.

â€¢ Prosecution could not come out with

clear motive.

â€¢ Two witnesses were withheld by the

prosecution.

â€¢ Benefit of doubt given to the

accused.", "â€¢ Ajay Kumar has been

involved in commission

of heinous bodily injury.

â€¢ Acquitted on the basis

of benefit of doubt.

Paramjeet

Singh SLP

(C)No.237 26/16","â€¢ FIR under Sections 323 and 506

IPC.

â€¢ Appeared at a satsang along

with other accused. Started

creating hindrance in the same

and thereafter upon the

complainant.

â€¢ Trying to stop him gave knife

blows to the complainant.

â€¢ Caused injury to other persons

with iron rod.

â€¢ Threatened to kill the persons

with a pistol."â€¢ Complainant/solitary eye witness

admitted the evidence but denied the

involvement of accused.

â€¢ Stated that assailants were

unidentified persons.

â€¢ Stated his signatures were obtained

by police on blank papers."â€¢ Accused acquitted as

the solitary eye witness

turned hostile.

â€¢ Considered the same

to be a case of benefit of

doubt.

Ombir SLP(C)

No.8905/ 17",â€¢ FIR under Sections 323, 354,

506/34 IPC.

â€¢ Allegation is that Ombir along

with other co-accused persons in

furtherance of their common

intention outraged the modesty of

one Sudesh (complainant).

â€¢ Caused hurt to her, after which

the complainant was admitted in

the hospital."â€¢ The complainant and one Pradeep

(PW2) has turned hostile and

therefore prosecution evidence was

closed and the accused acquitted."â€¢ The accused was

acquitted as the

complainant did not

support the case of the

prosecution .

â€¢ The accused has

committed offence of

outraging modesty of
woman and has been
acquitted on the benefit
of doubt.