



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

**BEFORE**

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND  
DHARMADHIKARI**

**&**

**HON'BLE SMT. JUSTICE ANURADHA SHUKLA  
WRIT PETITION No. 10134 of 2023**

**Rajendra Prasad Chourey (dead) through LRs**

**Chitralkha Chourey & Others**

**Versus**

**Union of India & Others**

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*Appearance :*

*Smt. June Choudhari, Senior Advocate with Shri Shikhar Jat – Advocate  
for the petitioners.*

*Shri Siddharth Singh Chouhan – Advocate for the  
respondent/University.*

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**Reserved on : 24.09.2024**

**Pronounced on : 04.10.2024**  
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**ORDER**

***Per: Justice Sushrut Arvind Dharmadhikari***

With the consent of the learned counsel for the parties, the matter is heard finally.

2. In this petition under Article 226 of the Constitution of India, the petitioner has assailed the order dated 17.04.2023 passed by the respondent



no.3 whereby, the order of dismissal dated 10.07.2000 is maintained after affording opportunity of hearing to the petitioner.

**3.** The brief facts of the case are that the petitioner was initially appointed as a Casual Labour in the year 1982 in the respondent establishment. The petitioner possessed the qualification of Mechanical I.T.I. He was regularized in March, 1983 on Class-IV post as a Mechanic. Thereafter, in the year 1985, he was promoted as Technician Grade –III. In 1987, he was again promoted as Technician Grade-II. In September, 1994, some family dispute arose which lead to registration of a criminal case under Section 307 of IPC against the petitioner and he was kept in police custody for more than 48 hours. The petitioner was found guilty and was sentenced for three years of rigorous imprisonment with fine of Rs.500/- by the Sessions Court, Hoshangabad in Criminal Case No.60/1995 vide order dated 07.06.2000. As a result, the petitioner was dismissed from service w.e.f. 10.07.2000 under Rule 9 of the M.P. Civil Rules (Classification, Control and Appeal) Rules, 1965. (hereinafter referred to as ‘Rules of 1965’).

Against the order dated 07.06.2000 passed by the Sessions Judge, Hoshangabad, the petitioner had approached this Court by filing Criminal Appeal No.1509/2000 and the same was also dismissed. Being further aggrieved, the petitioner approached the Apex Court in Criminal Appeal No.2126/2011. The Apex Court, vide order dated 16.11.2011, upheld the conviction recorded by the Courts below and reduced the sentenced awarded to the sentence already undergone by the petitioner.



5. Further, the petitioner challenged the order of dismissal before the Central Administrative Tribunal, Jabalpur in O.A. No.401/2012 which was later on withdrawn with liberty to approach this Court. The petitioner thereafter, preferred a Writ Petition No.1605/2018 before this Court on the ground that principle of natural justice was not followed. This Court, vide order dated 21.07.2023, quashed the order of dismissal dated 10.07.2000, directing the disciplinary authority to afford reasonable opportunity of hearing to petitioner and thereafter, pass a reasoned and speaking order in accordance with law, keeping in mind that punishment under Rule 9 need not be removal or dismissal from service but can be of lesser major penalty.

6. In pursuance to the order passed by this Court, the disciplinary authority, vide its order dated 17.04.2023, after granting reasonable opportunity of hearing to the petitioner, maintained the order of dismissal on the ground that the Apex Court, in the case of **Hikmat Ali Khan vs. Ishwar Prasad Arya, AIR 1997 SCC 864** and also in the case of **Raghvendra Kumar vs. Prabal Kumar 2014 (13) SCC 354**, has specifically held that conviction under Section 307 of IPC would amount to moral turpitude. Moreover, the petitioner had suppressed the vital information with regard to his conviction, therefore, suppression of vital information would render the appointment of the petitioner invalid.

Feeling aggrieved, the petitioner has filed this present writ petition challenging the order impugned dated 17.04.2023.

7. Learned counsel for the petitioner contended that the action of the disciplinary authority in rejecting the oral request of the petitioner with



regard to quantum of punishment is *per-se* illegal, arbitrary, unjust and unreasonable and thus, the same is liable to be set aside. The respondents have failed to assign any reason for not considering the question of quantum of penalty and have totally ignored the observations made by the Court that some lesser punishment may also be imposed. The petitioner ought to have been reinstated in service by imposing a lesser punishment other than termination/dismissal/removal. As a consequence, the petitioner is also entitled for backwages for the period he remained out of service.

8. *Per contra*, learned counsel for the respondents vehemently opposed the prayer and submitted that the petitioner has rightly been dismissed from service since he stood convicted under Section 307 of IPC. In *Hikmat Ali Khan* (supra) and *Raghvendra Kumar* (supra), the Apex Court has already held that conviction under Section 307 of IPC would amount to moral turpitude. It is for the employer to appoint or not to appoint a person who had committed an offence which falls within the definition of moral turpitude. To support his contention, learned counsel for the respondents has relied upon various judgments of the Hon'ble Supreme Court.

9. The Apex Court in the case of **RBI vs. Bhopal Singh Panchal (1994) 1 SCC 541** had specifically held that an Honourable acquittal is when the accused is acquitted after fully considering the evidence of the prosecution and the prosecution has miserably failed in proving the charges against accused, and in the instant case, there has been a compromise, and the Petitioner was granted acquittal not because the prosecution failed to prove the charges against the Petitioner beyond reasonable doubt, but only because a compromise was reached between the accused and the prosecution.



10. The Apex Court in the case of **Avatar Singh vs. Union of India & Ors. (2016) 8 SCC 471** has held that the employer can consider antecedents and cannot be compelled to appoint the candidate. It is submitted that for appointment in police force, a person of an impeccable character and utmost honesty is required. Two criminal cases were registered against the petitioner and both the criminal cases resulted in acquittal only on the ground that in both criminal cases, complainant had decided to enter into a compromise. Therefore, it is clear that acquittal of petitioner was not honourable. Honourable acquittal is only when, the accused is fully absolved from the alleged charges against him. The same was also reiterated by this court in the case of *Deepak Vishnoi Vs The State of MP & 4 Others WP No. 20686 of 2023*.

The Apex Court in the case of *Avatar Singh* (supra) has also laid down various parameters which are summarized as under :-

I. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

II. Where conviction has been recorded in a case which is not trivial in nature, the employer may cancel candidature or terminate services of the employee.

III. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts



available as to antecedents, and may take appropriate decision as to the continuance of the employee.

**11.** The Apex Court in the case of **Sushil Kumar Singhal Vs. Regional Manager, Punjab National Bank, 2010 (8) SCC 573**, postulated the definition of Moral Turpitude in the following words:

24. In view of the above, it is evident that moral turpitude means anything contrary to honesty, modesty or good morals. It means vileness and depravity. In fact, the conviction of a person in a crime involving moral turpitude impeaches his credibility as he has been found to have indulged in shameful, wicked, and base activities.

Further, Moral Turpitude means [Per Black's Law Dictionary (8th Edn., 2004)] :-

"Conduct that is contrary to justice, honesty, or morality. In the area of legal ethics, offenses involving moral turpitude such as fraud or breach of trust. Also termed moral depravity."

**12.** Further, in the case of **State of Rajasthan Vs. Love Kush Meena, (2021) 8 SCC 774**, the Hon'ble Supreme Court reiterated that:

23. The mere fact of an acquittal would not suffice but rather it would depend on whether it is a clean acquittal based on total absence of evidence or in the criminal jurisprudence requiring the case to be proved beyond reasonable doubt, that parameter having not been met, benefit of doubt has been granted to the accused.

**13.** Learned counsel for the respondents submitted that Rule 9 of the Rules of 1965 confers power on the disciplinary authority to consider the



circumstances of the case and pass such orders there on as it deems fit. On these grounds, learned counsel for the respondents pray for dismissal of the writ petition.

**14.** Heard the learned counsel for the parties and perused the record.

**15.** On perusal of the impugned order dated 17.04.2023, it can be very well seen that the respondent authorities have granted reasonable opportunity of hearing to the petitioner and thereafter, passed a reasoned and speaking order following directions contained in *Avatar Singh* (supra) case and also gave reasons for not reinstating the petitioner and have rejected the prayer for imposition of lesser penalty other than termination/dismissal/removal.

**16.** The Apex Court in the case of **Commissioner of Police, New Delhi and another vs. Mehar Singh (2013) 7 SCC 685** has held that :-

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 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.

**17.** Taking clue from the aforesaid judgments, this Court can very well conclude that it is the entire discretion of the appointing authority to appoint or not to appoint a person who is involved in an offence involving moral turpitude even if that person is acquitted giving him benefit of doubt etc., it would not automatically entitled him for the employment. The disciplinary authority having exercised its jurisdiction in accordance with law and after giving full opportunity of hearing to the petitioner, it cannot be said that he has committed any mistake in rejecting the candidature of the petitioner. Accordingly, this Court is not inclined to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

**18.** Accordingly, the petition fails and is hereby **dismissed**. No order as to cost(s).

Certified copy as per rules.

(SUSHRUT ARVIND DHARMADHIKARI)  
JUDGE

(ANURADHA SHUKLA)  
JUDGE