

UNION OF INDIA AND OTHERS

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v.

RAMESH BISHNOI

(Civil Appeal No.9109 of 2019)

NOVEMBER 29, 2019

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[UDAY UMESH LALIT AND VINEET SARAN, JJ.]

Service Law:

Appointment – Cancellation of – On the ground that criminal case had been lodged against the candidate – Propriety of – Held: The criminal case accusing the delinquent of teasing a girl when he was minor, had resulted in acquittal – However, such offence is not even covered under the definition of moral turpitude – The delinquent cannot be deprived of a job on the basis of charges committed as a juvenile also in view of clause (xiv) of s. 3 of Juvenile Act – Juvenile Justice (Care and Protection of Children) Act, 2015 – s. 3 (xiv) – Penal Code, 1860 – ss. 354, 447 and 590.

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Dismissing the appeal, the Court

HELD: 1. In the present case, the complaint/FIR lodged against the respondent was to the effect that when he was a minor, he had teased a girl a few times and went to the extent of catching hold of her hand. However, the girl and her parents finally decided to pardon the respondent by not giving any evidence against him, resulting in the acquittal of the respondent. In the aforesaid facts, even if the aforesaid is found to be true, it cannot be said that the respondent had committed such a crime, which would be covered under the definition of moral turpitude, specially when the respondent is said to have committed the alleged offence when he was a minor. [Para 8] [1100-G-H; 1101-A]

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2.1 The respondent could not have been deprived of getting a job on the basis of such charges as the same had been committed while the respondent was juvenile. The thrust of the legislation, i.e. The Juvenile Justice (Care and Protection of Children) Act, 2000 as well as The Juvenile Justice (Care and Protection of Children) Act, 2015 is that even if a juvenile is convicted, the

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- A same should be obliterated, so that there is no stigma with regard to any crime committed by such person as a juvenile. This is with the clear object to reintegrate such juvenile back in the society as a normal person, without any stigma. Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down guidelines for the Central Government, State Governments, the Board and other agencies while implementing the provisions of the said Act. Clause (xiv) of Section 3 clearly provides that all the past records of any child under the Juvenile Justice system should be erased except in special circumstances. [Para 9] [1101-C-F]
- B 2.2 In the present case, it is an admitted fact that the respondent was acquitted of the charges. However, even if he had been convicted, the same could not have been held against him for getting a job, as admittedly he was a minor when the alleged offences were committed and the charges had been framed against him. Section 3(xiv) provides for the same and the exception of special circumstances does not apply to the facts of the present case. [Para 9] [1101-G-H; 1102-A]
- C 3. The respondent had very fairly disclosed about the charges which had been framed and his acquittal on the basis of no evidence having been adduced by the complainant against the respondent can not be said to be a suppression by the respondent, on the basis of which he could be deprived of a job, for which he was duly selected after following the due process and appointment having been offered to him. [Para 10] [1102-B-C]
- F *Avtar Singh v. Union of India (2016) 8 SCC 471 : [2016] 7 SCR 445 – referred to.*

Case Law Reference

- G [2016] 7 SCR 445 referred to. Para 4
CIVIL APPELLATE JURISDICTION: Civil Appeal No. 9109 of 2019
From the Judgment and Order dated 08.05.2018 of the High Court of Judicature for Rajasthan at Jodhpur in D.B. Special Appeal Writ No. 702 of 2018
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Aman Lekhi, ASG, R. Balasubramanian, Sr. Adv., Ms. Rekha Pandey, Ms. Pooja Dhar, B. V. Balaram Das, Advs. for the Appellants.

Ms. Archana Pathak Dave, Kumar Prashant, Ms. Jayati Sharma, Manish Sharma, Virag Gupta, Advs. for the Respondent.

The Judgment of the Court was delivered by

VINEET SARAN, J.

1. Leave granted.

2. This appeal pertains to the appellants (Union of India) denying appointment to the respondent, (even though selected) on the post of Sub-Inspector, on the ground of a criminal case having been registered in the past against the respondent.

3. Brief facts relevant for the purpose of this case are that in response to an advertisement dated 28.03.2015, for recruitment on the post of Sub-Inspector in the Central Industrial Security Force (for short 'CISF') issued by the Staff Selection Commission (SSC), the respondent had appeared in the written examination and physical endurance test and was thus selected and offered appointment on 15.09.2016. The respondent was then required to submit a form, wherein there was a column relating to whether any First Information Report (for short 'FIR') had been lodged against the respondent in the past. The respondent had given the details of the FIR (No.70/2009) under Sections 354, 447 and 509 of the Indian Penal Code (for short 'IPC') having been lodged against the respondent and in the further column of the questionnaire form, the respondent had clearly mentioned that on the matter having been compromised, he was acquitted of the aforesaid offence on 24.11.2011, as there was no evidence adduced against the respondent. The respondent had thus rendered all necessary information regarding the criminal case lodged against him and did not conceal any material fact. The case was then referred to the Standing Screening Committee, which found the respondent unsuitable for appointment in CISF on the aforesaid ground that a criminal case had been lodged against him in the past. Consequently, on 03.06.2017 the National Industrial Security Academy cancelled the appointment of the respondent, on the ground of registration of a criminal case in the past.

4. Challenging the said order, the respondent filed Writ Petition No.7522 of 2017, which was allowed by a learned Single Judge of the

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- A High Court of Rajasthan at Jodhpur vide judgment dated 06.12.2017, and the case of the respondent was directed to be decided afresh within 15 days in the light of the guidelines issued by this Court in the case of *Avtar Singh vs. Union of India (2016) 8 SCC 471*. The case of the respondent was then re-examined by the Standing Screening Committee on 02.01.2018, which by an order dated 16.01.2018, again rejected the claim of the respondent, holding that the respondent was acquitted merely for due to lack of adequate evidence and compromise, and that the offence in the charge sheet falls in the category of serious offence, and thus the respondent was not considered suitable for appointment on the post of Sub-Inspector in CISF.
- B 5. Challenging the said order, the respondent filed Writ Petition No.1310 of 2018, which was allowed by an order dated 08.03.2018 with the following directions:
 - C “..... *the impugned Order dated 16.1.2018 (communicated vide letter dated 17.01.2018) (Annex.1) is recashed and set aside; the respondents are directed to activate offer of appointment of the petitioner earlier made to the Petitioner for the post of Sub-Inspector in Central Industrial Security Force. The order may be operated upon within a period of thirty days from today and all notional benefits shall be prospectively given.*”
 - D 6. The appellants herein, challenged the order of the learned Single Judge dated 08.03.2018 before the Division Bench of the High Court of Rajasthan at Jodhpur in Special Appeal Writ No.702 of 2018, which was dismissed by the Division Bench by judgment dated 08.05.2018.
 - E Aggrieved by the said orders dated 08.03.2018 and 08.05.2018, passed by the learned Single Judge and Division Bench respectively of the High Court of Rajasthan at Jodhpur, this appeal has been filed by way of Special Leave Petition.
 - F 7. We have heard learned Counsel for the parties at length and have perused the material on record.
 - G 8. In the present case, the complaint/FIR lodged against the respondent was to the effect that when he was a minor, he had teased a girl a few times and went to the extent of catching hold of her hand. However, the girl and her parents finally decided to pardon the respondent by not giving any evidence against him, resulting in the acquittal of the

respondent. In the aforesaid facts, even if the aforesaid is found to be true, it cannot be said that the respondent had committed such a crime, which would be covered under the definition of moral turpitude, specially when the respondent is said to have committed the alleged offence when he was a minor.

9. From the facts, it is clear that at the time when the charges were framed against the respondent, on 30.06.2009, the respondent was well under the age of 18 years as his date of birth is 05.09.1991. Firstly, it was not disputed that the charges were never proved against the respondent as the girl and her parents did not depose against the respondent, resulting in his acquittal on 24.11.2011. Even if the allegations were found to be true, then too the respondent could not have been deprived of getting a job on the basis of such charges as the same had been committed while the respondent was juvenile. The thrust of the legislation, i.e. The Juvenile Justice (Care and Protection of Children) Act, 2000 as well as The Juvenile Justice (Care and Protection of Children) Act, 2015 is that even if a juvenile is convicted, the same should be obliterated, so that there is no stigma with regard to any crime committed by such person as a juvenile. This is with the clear object to reintegrate such juvenile back in the society as a normal person, without any stigma. Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down guidelines for the Central Government, State Governments, the Board and other agencies while implementing the provisions of the said Act. In clause (xiv) of Section 3, it is clearly provided as follows:

“.....”

(xiv) *Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.*

.....”

In the present case, it is an admitted fact that the respondent was a minor when the charges had been framed against him of offences under Sections 354, 447 and 509 of IPC. It is also not disputed that he was acquitted of the charges. However, even if he had been convicted, the same could not have been held against him for getting a job, as admittedly he was a minor when the alleged offences were committed and the charges had been framed against him. Section 3(xiv) provides

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- A for the same and the exception of special circumstances does not apply to the facts of the present case.

10. Further, the case against the respondent is not with regard to the suppression of any conviction or charges having been framed against him. The respondent had very fairly disclosed about the charges which

- B had been framed and his acquittal on the basis of no evidence having been adduced by the complainant against the respondent. In our considered view, the same can also not be said to be a suppression by the respondent, on the basis of which he could be deprived of a job, for which he was duly selected after following the due process and appointment having been offered to him.

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11. For the reasons given hereinabove, we do not find any ground for interference with the orders passed by the learned Single Judge as well as the Division bench of the High Court of Rajasthan at Jodhpur. Consequently, this appeal is dismissed. The respondent shall be entitled to all the benefits of the judgment of the writ Court within 30 days from today.

No orders as to cost.

Devika Gujral

Appeal dismissed.