

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

Before Single Bench: Hon'ble Mrs. Justice S.R. Waghmare

and Hon'ble Mr. Justice T.K. Kaushal.

W.A. No.73/2015

State of MP and others

Vs.

Manish Verma and another

Shri Aniket Naik, learned counsel for the appellants.

Shri Ashish Gupta, learned Counsel for the respondent.

(Passed on 28/07/2015)

Per: Mrs. Justice S.R. Waghmare.

By this writ appeal under Section 2(1) of Madhya Pradesh Uchha Nyayalaya (Khand Nyapith Ko Appeal) Adhiniyam, 2005 the appellants are aggrieved by the judgment dated 16.10.2014 passed in W.P. No.3560/14(S) whereby the petition has been allowed.

02. Briefly stated the facts of the case are that the respondent Manish Verma had applied for the post of Police Constable and participated in the Police Constable Recruitment Test of 2012 conducted by respondent M.P. Professional Examination Board and he had stated on affidavit that there was a matter for offence under Section 498-A of IPC pending before the Judicial Magistrate, First Class, Ujjain. He qualified for the second round

and passed the medical test. In the meantime he was acquitted from the case pending against him and hence he filed another affidavit to the concerned authority that he had been acquitted but the respondent Professional Board depending on Government Circular No.F.17-74/2002/C-a dated 5th June, 2003 rejected his appointment since he was involved in an offence of moral turpitude. Being aggrieved by the non-selection respondent Shri Verma filed a WP bearing No.3560/14(S) whereby it was vehemently urged that a character verification was given by the committee constituted as per guidelines prescribed in the Supreme Court judgment in the matter of **Civil Appeal no.4842/13 SLP No.38886/12 Commissioner of Delhi Vs. Meharsingh** which had held that if the acquittal in a criminal case was not honourable only then the eligibility would be affected and that the candidate would not be eligible for the police service in which high level of morality is essential.

03. Counsel for the appellant/State has contended that despite having considered the said case, the learned Single Judge allowed the writ petition and directed the Professional Board to issue the consequential appointment order if he was

otherwise eligible according to the merit list and the respondent Board could not deny appointment to the petitioner only because he was involved in the criminal case as he has been acquitted *vide* judgment of acquittal dated 09.12.2013. Counsel submitted that such a finding was contrary to the facts of the case and Counsel placed reliance on **Commissioner of Delhi (supra)** as well as the another judgment by the Apex Court in the matter of **State of MP and others Vs. Parvez Khan [Civil Appeal No.10613 of 2014]** to bolster his submissions. Counsel vehemently urged the fact that the respondent was charged with offence under Section 498-A of the IPC and the acquittal was not honourable and the police service is a unit force which requires a high degree of morality and integrity and hence the petitioner cannot be considered for appointment.

04. Moreover Counsel submitted that the case of the respondent has been considered by a duly constituted screening committee and a full opportunity of hearing was given to the petitioner and it was the ground of moral turpitude that he is not eligible for the police service. Counsel placed reliance on a Circular of the Govt. dated 05.06.2003 whereby there is a bar for consideration of such

person and offence under Section 498-A of IPC has been included in the scheduled offences of moral turpitude at Sl. No.11 and the Circular has been filed as Annexure A/2 along with the present appeal and Counsel prayed that the learned Single Judge had erred in coming to the conclusion that the acquittal was honourable and that the petitioner was entitled to the appointment. The findings of the Screening Committee were final in this regard and placing reliance on **Meher Singh (supra)** Counsel submitted that there was no malafides in the proceedings of the Screening Committee and it cannot be assailed in the light of **Meher Singh**. The Apex Court had also held that the High Court was not justified in interfering while the order of rejecting of the respondent of recruitment of the police service and in this light also Counsel prayed that the judgment of the learned Single Judge be set aside.

05. Per Contra Counsel for the respondent Manish Verma has vehemently urged the fact that in the matter of **Rakesh Sharma Vs. State of MP in WP No.9913/2012** considered by the learned Single Judge and other cases it was considered that nothing has been suppressed by the respondent Shri Verma and in the police verification form also quite

categorically stated that the case was pending against him and subsequently it has resulted in an acquittal. The acquittal is a clean acquittal and hence no interference is called for in the judgment of the learned Single Judge. Moreover Counsel submitted that in the peculiar facts and circumstances of the case the wife had also stated that she had no objection if the applicant was considered for the appointment primarily since the matrimonial dispute had been compromised and they were now living together as man and wife, Counsel prayed that the appeal was without merit and the same be dismissed.

06. On considering the above submissions, we find that the proceedings of the Screening Committee are not barred from judicial scrutiny. The learned Single Judge has come to the conclusion that the proceedings were arbitrary and the acquittal has been honourable. Then under these circumstances we do not find any good ground to interfere with the order passed by the learned Single Judge. Moreover even if the testimony of the wife is considered she has categorically stated in trial Court during the trial that at the time of marriage no dowry was demanded and she has also admitted in impugned para – 12 & 13 of her deposition that the applicant was without a job

and she wanted to reside separately with him and the compromise had been arrived at during the period of trial itself. Moreover she has stated so before this Court also. Then under these circumstances, we find that only question that remains to be considered is whether offence under Section 498-A of the IPC would be one of moral turpitude and the acquittal of the accused has been honourable ?

07. On considering the above submissions and the record we find that the Counsel for the appellants has very vehemently urged the fact that the findings of the Screening Committee could not have been assailed in the writ petition since it was specially constituted body and had considered the case in accordance with the provisions of law. And he relied on the cases of **Pervez Khan** and **Mehar Singh (supra)**, however we find that even in the said case, the Court had held in impugned para-29 that the Screening committee's proceedings have been assailed as being arbitrary, unguided and unfettered. The Apex Court had also considered the fact that the acquittal of Mehar Singh was based on the compromise, however, disclosure was not made in the said case regarding the enmity and other important facts i.e. Mehar Singh had other criminal

cases also recorded against him and in this regard the Apex Court had come to the conclusion that the acquittal was not honourable. Whereas in the peculiar facts and circumstances of the present case, it would be difficult to hold that the acquittal of the respondent Shri Verma was otherwise. On scrutinising the evidence available on record, we find that in the judgment of acquittal, the learned Judge of the trial Court has categorically stated that the demand was not for dowry but a loan had been availed by the respondent and hence the prosecution case had not been established and the accused had been acquitted since the ingredients of offence under Section 498-A of the IPC were not fulfilled; then under these circumstances it would be difficult to hold that the acquittal was not honourable.

08. Consequently we find that the findings of the Screening Committee are open to scrutiny and the learned Single Judge has very correctly considered the evidence on record and to do substantial justice between the parties arrived at the conclusion that the acquittal was not tainted. Moreover the respondent's wife Smt. Verma has also appeared before this Court as well as the trial Court and stated that she was now amicably residing with the respondent Shri Verma

and the criminal cases had been compromised and withdrawn. Considering the fact that the compromise was also before the Screening Committee, it ought to have properly interpreted the principles laid down by the Apex Court. Undoubtedly the Screening Committee had to carry out the object of the comprehensive policy of the State and the scheme referred to above and since admittedly the police services demand a high standard of morality; but in the present case to our mind it would be improper to hold that the acquittal was not honourable since there is categorical finding by the trial Court that the respondent Shri Verma was not guilty of the offence of demand of dowry. In these circumstances, we do not find any good ground to interfere in the judgment of the learned Single Judge since in the present case the husband and wife have reconciled each other after being estranged over matrimonial disputes and it was also in the interest of general public that the matrimonial disputes are required to be settled amicably and the judgment of the learned Single Judge directing the appointment if the respondent Shri Verma is otherwise eligible would go a far way in cementing the matrimonial chords and strengthening the institution of marriage. In this light

also no fault can be found with the judgment impugned and it does not call for any interference. The appeal is without merit and the same is **dismissed** as such.

(Mrs. S.R. Waghmare)
Judge

(T.K. Kaushal)
Judge

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