

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

BEFORE

HON'BLE SHRI JUSTICE RAVI MALIMATH,

CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV

WRIT PETITION No. 5530 of 2019

Between:-

**GOVIND SHARMA S/O SHRI RAM
PRAKASH SHARMA, AGED ABOUT 27
YEARS, OCCUPATION-SERVICE, R/O
SHARMA BUS SERVICE MATAWALI
GALI, KAISHAV COLONY, MORENA,
DISTRICT-MORENA (M.P.)**

....PETITIONER

(BY SHRI PRAKASH UPADHYAY, ADVOCATE)

AND

**1. HIGH COURT OF MADHYA
PRADESH, THROUGH ITS REGISTRAR
GENERAL, HIGH COURT OF M.P,
JABALPUR.**

**2. STATE OF M.P. THROUGH THE
PRINCIPAL SECRETARY DEPARTMENT
OF LAW AND LEGISLATIVE AFFAIRS,
GOVERNMENT OF M.P.,
VINDHYANCHAL BHAWAN, BHOPAL
(M.P).**

**3. DIRECTOR GENERAL OF POLICE,
STATE OF MADHYA PRADESH, HEAD
QUARTER, JAHANGIRABAD, BHOPAL
(M.P).**

...RESPONDENTS

***(BY SHRI ANSHUMAN SINGH, ADVOCATE FOR
RESPONDENT No.1 AND SHRI ANKIT AGRAWAL,
GOVERNMENT ADVOCATE FOR RESPONDENTS
Nos. 2 AND 3)***

Reserved on : 11.01.2022

Passed on : 17.01.2022

PER JUSTICE PURUSHAINDR KUMAR KAURAV :

ORDER

The petitioner has filed the present petition against the decision of the Administrative Committee (Madhya Pradesh Judicial Service) dated 28.09.2018 (Annexure P/15), whereby, a decision was taken not to recommend the name of the petitioner for appointment to the post of Civil Judge (Entry Level). The petitioner has also challenged the consequential communication/ orders dated 04.10.2018 (Annexure P/16), 08.10.2018 (Annexure P/17) and 19.10.2018 (Annexure P/18).

2. The brief facts necessary for adjudication of this petition are that the petitioner qualified the Madhya Pradesh Civil Judge Class-II (Entry Level) Examination, 2016 and his name finds place in the select list of the said examination. However, the Administrative Committee of Madhya Pradesh Judicial Service (High Court) on 28.09.2018 decided not to recommend the name of the petitioner taking into consideration antecedents of the petitioner, to be more particular a criminal case

No.183/2017 for offences under Section 294,323,341,506-B,427 of the IPC was registered against him on 25.07.2013, however, on the basis of compromise, vide judgment dated 20.03.2014, he was acquitted from the charges.

3. Learned counsel appearing for the petitioner has submitted that the impugned decision is against the settled legal position that a person is presumed to be innocent unless and until he is proven guilty. By virtue of Section 320(8) of Cr.P.C composition of an offence would have the effect of an acquittal. The petitioner was honourably acquitted and without taking into consideration all the facts and circumstances of the case, the impugned decision has been taken. According to him, the High Court should not have rejected his candidature without considering the nature of allegations in the criminal case, the age of the petitioner when the offence was registered against him and his afterwords over-all conduct till date, which proves that except for one case, there is no blot in his entire career and hence holistic approach should have been adopted. He also submits that there is no uniformity in appointment as some of the candidates who are similarly situated, were appointed. In support of his arguments, he relied on the decisions in the case of *Mohammed Ibrahim Vs. State of Maharashtra*¹, *Commissioner of Police & Others Vs. Sandeep Kumar*² and *Union Territory, Chandigarh Vs. Pradeep Kumar*³.

4. Learned counsel appearing for the respondents submits that the impugned decision is in accordance with law. The same does not require for any interference under the powers of judicial review of this court. There is no indefeasible right in favour of the selected candidate to seek

1 (2019) 17 SCC 696

2 (2011) 4 SCC 644.

3 (2018) 1 SCC 797

appointment of a civil post. The employer is free to take a subjective satisfaction regarding suitability of the candidates to be appointed against the civil post. He submits that the decision of the Administrative Committee is based on the principles laid down by the Hon'ble Supreme Court and this court in the matters of *Ashutosh Pawar Vs. High Court of M.P. and others*⁴, *C. Ravichandran Iyer Vs. Justice A.M. Bhattacharjee*⁵ and *Pradeep Kumar*³ (*supra*).

5. We have heard learned counsel for the parties at length and perused the record.

6. From the decision dated 28.9.2015 (Annexure P/15) of the Administrative Committee, it is seen that a conscious decision is taken keeping in mind the principle that the Judicial Office is essentially a public trust, therefore, a Judge must be a man of high integrity, honesty and required to have moral vigor, ethical firmness and impervious to corrupt or venial influences. The Full Bench in the case of *Ashutosh Pawar (supra)* has considered whether an acquittal in a criminal case is a proof of good conduct. The Court after referring to the judgment of Hon'ble Supreme Court in various cases held that mere acquittal in a criminal case would not be sufficient to gather that the candidate possess a good character. The Hon'ble Supreme Court in the case of *State of Madhya Pradesh Vs. Abhijeet Singh Pawar*⁶ held that the employer can certainly take into account the job profile for which selection is undertaken, severity of charges levelled against the candidate and whether acquittal in question was an honourable acquittal or was merely on the ground of benefit of doubt or as a result of compromise. The decision of

4 2018(2) MPLJ-419.

5 (1995) 5 SCC-457.

6 (2018) 18 SCC 733.

Abhijeet Singh Pawar ⁶ is subsequent to the decision of *Mohd. Imran Vs. State of Maharashtra*¹.

7. The case of *Mohd. Imran*¹ and other decisions cited by learned counsel for the petitioner are based on individual facts of those cases. However, principle of law continues to be that the employer can certainly take into account the overall facts and circumstances including the nature of job and the allegations levelled against the candidate and the said view is supported by the decision in the cases of *Commissioner of Police, New Delhi and another Vs. Mehar Singh*⁷, *State of Madhya Pradesh and others Vs. Parvez Khan*⁸ and *Pradeep Kumar* ³.

8. A judicial officer has to discharge the sovereign functions in administration of justice. Thus, the expectations from a judicial officer are of much higher standard. Keeping in mind the said principle, if a decision is taken by the employer, that a person against whom charge-sheet was filed for offences under Section 294,323,341,506-B,427 of the IPC and the closure was made only on the basis of a compromise such a decision normally should not be interfered with in exercise of power of judicial review. In absence of any strong reason such as rejection of the candidature being actuated by reasons of mala fide or the decision suffering from non-application of mind, the scope of interference by this court under judicial review is limited. The High Court under Article 226 of the constitution only examines the decision making process and does not act as a court of appeal to substitute its own decision. Even if the decision making process is found to be arbitrary or illegal, the High Court normally directs the authority for reconsideration rather than to substitute

7 2013(7) SCC 685

8 2015(2) SCC 591.

the decision of the authority with that of its own. However, the said situation has not arisen in the present case.

9. In view of the aforesaid, we are not inclined to interfere with the impugned orders. Hence, the petition fails and is hereby dismissed.

(RAVI MALIMATH)
CHIEF JUSTICE

(PURUSHAINDR KUMAR KAURAV)
JUDGE

MKL