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Court : Central Administrative Tribunal CAT Delhi

Decided On : Feb-08-2012

Judge : The Honourable Mr. G. George Paracken, Member (J) & the Honourable Dr. Veena Chhotray, Member (a)

Appeal No. : OA 2158 of 2011

Appellant : Deepak Kumar

Respondent : Govt. of Nct of Delhi, Through Chief Secretary, Secretariat, New Delhi and Others

Advocate for Pet/Ap. : For the Applicant: Manish Kumar, Advocate. For the Respondents: Ms. Rashmi Chopra, Advocate.

Judgement :

Dr. Veena Chhotray:

1. Under challenge is the cancellation of candidature for the post of Constable (Exe) in Delhi Police. The order of cancellation has been passed on the ground of unsuitability, considering the criminal antecedents of the applicant. The OA seeks quashing the impugned order dated 11.5.2011 along with directions for considering his case for appointment to the said post.

2. The learned counsels Shri Manish Kumar and Ms. Rashmi Chopra, would appear before us respectively for the applicant and the respondents. On behalf of the applicant, short synopsis of written submission with certain citations relied upon was submitted. The respondents also submitted a list of judgments relied upon by them.

3. Briefly stated, the facts are that the applicant was a provisionally selected candidate for the post of Constable (Exe) Male in Delhi Police on the basis of the recruitment held in the year 2009 (Phase-II). The selection was subject inter alia to satisfactory verification of character and antecedents and final checking of documents.

3.1 In course of scrutiny of the documents submitted by the applicant, it was revealed that in his Application Form and Attestation Form, the fact of his involvement in criminal case FIR No.140/2007 dated 12.7.2007 under Section 302/506 IPC P.S. Garh Mukteshwar, Distt. Ghaziabad (UP) and the subsequent acquittal by the trial court vide the order dated 6.4.2009 had been disclosed.

3.2 On consideration of the matter by the Screening Committee constituted for the purpose, a Show Cause Notice dated 14.3.2011 (Annex A/4) was issued against cancellation of candidature. In response, a reply was submitted stating the reasons against such a course of action. The final order dated 11.5.2011 (impugned in the present OA) was passed after considering the reply of the applicant and other relevant material.

This has occasioned the present OA.

4. In his reply to the show cause notice, the fact of disclosure of the said criminal case much prior to the appointment had been submitted and such disclosure being indicative of high moral integrity on the part of the applicant pleaded. The contention of the acquittal being 'honourable' rather than on any technical grounds or giving 'benefit of doubt' had also been made. The cardinal principle of criminal jurisprudence about a clean acquittal from the competent court of law cleansing the accused person of all stigma and making him entitled to avail all civil rights had also been evoked.

4.1 As per the OA, the impugned order is averred to be arbitrary and mechanical without due application of mind. There being no such stipulation regarding ineligibility under the Delhi Police Recruitment Rule 6 has also been argued (Ground A). Ground B contends about the conditions for cancellation of candidature mentioning only regarding suppression of factual information about a criminal case. The factum of acquittal in this case by a competent court of law after following due process has also been argued (the additional short synopsis). As per the applicant, the reliance placed by the respondents on Delhi Administration Vs. Sushil Kumar, (1996) 11 SCC 605 and Daya Shanker Yadav Vs. Union of India and Ors. (CA No.9913/2010) is misdirected, as the factual matrix of the two cases were different. In both these cases, the appellants had been found guilty of suppression of the fact of the criminal case which was contrary to the declaration. The impugned decision not being in consonance with the modern approach of criminal jurisprudence-reformative in nature instead of crippling a person with a life long stigma-has also been argued.

5. While acknowledging the fact of disclosure of the criminal case by the applicant in the relevant forms before the appointment, the respondents have justified the decision of cancellation of candidature. The counter affidavit reiterates about the case having been duly examined by the Screening Committee constituted by the Commissioner of Police for the purpose. The final view regarding the cancellation having been taken in the light of the attending circumstances that led to the commission of the offence, nature of offence, grant of acquittal, court judgment and the role of the candidate, have also been submitted. A due observance of the principles of natural justice by issuing a show cause notice to the candidate and duly considering the reply submitted in response has also been mentioned. As regards the various judicial rulings cited by the applicant, it would be argued on behalf of the respondents, that each case has to be decided as per its facts and circumstances.

Strong plea has been raised that as upheld by the Hon'ble Apex Court in Sushil Kumar's and Daya Shanker Yadav's cases (supra), verification of character and antecedents of a selected candidate is the basic right of the appointing authority, which is not dependent upon the outcome of the criminal case. As per the

respondents, the applicant had been found to have been involved in a heinous crime of murder. After considering the entire gamut of facts, the Screening Committee had not found such a candidate as suitable for appointment in a disciplined force like Delhi Police. Hence, the decision for cancellation of candidature has been taken by the competent authority, for which there is stated to be no justification for judicial interference by the Tribunal.

6. A number of judicial pronouncements have been relied upon by both the sides to establish their cases.

6.1 The respondents have basically relied upon the Apex Court's decisions in the cases of Sushil Kumar and Daya Shanker Yadav, already referred above. Besides, the learned counsel for the respondents has also submitted a detailed list of certain other decisions both by the Tribunal as well as the Delhi High Court, which would appropriately be referred by us in the subsequent paragraphs of this order.

6.2 To highlight the basic thrust of arguments in defence of the applicant, the salient rulings relied upon are being briefly mentioned below:-

(a) Acquittal in a criminal court erases all stigma and restores the human and civil rights of a person.

(i) The Apex Court's decision in V.C. Shukla Vs. Purshottam Lal Kaushi [1981 AIR 547.

(ii) The Bombay High Court's decision in Dattatraya Vasudeo Kulkarni Vs. Director of Agriculture, Maharashtra and Ors., 1984 (2) SLR 222.

(iii) The Allahabad High Court's decision in Mahtab Khan vs. State of UP and Ors. (Writ-A No.1882 of 2007).

(iv) The Apex Court's decision in Dilip Kumar Sharma Vs. State of MP [1976 SCC (1) 586]

(b) The judgment of the Apex Court in Sushil Kumar's case (supra) cannot be applied mechanically. As illustrations of deviations, the following have been

referred:-

(i) Delhi High Court's decision dated 19.4.2010 in Delhi Police and Anr. Vs. Omveer Yadav [WP(C) No.12899/2009]

(ii) R.Radhakrishnan Vs. Director General of Police and Ors., AIR 2008 SC 278.

(C) The impugned decision is not in consonance with the modern reformative approach. The decision relied upon is State of Madhya Pradesh Vs. Ramashankar Raghuvanshi and Anr. (Ground D).

(D) Additionally a list of other judicial rulings have been furnished. In these cases, the decision had been taken in favour of the applicants.

7. As the issue has been the subject of judicial adjudication in a host of cases by the Central Administrative Tribunal, the Delhi High Court as well as the Apex Court, the issues raised in the present OA would need to be viewed within the format of the development of law on the subject. Further, the broad contours of the law, as developed in course of such judicial pronouncements, would need to be distinguished from the individual decisions in particular cases, irrespective of the outcome of the decisions. Only on delineation of such a broad format, the appreciation of facts and circumstances of this particular case would be a meaningful exercise.

7.1 While deciding the OA 2939/2009 (Kulbir Singh Vs. GNCTD and Anr.) decided on 26.2.2010 by a coordinate Bench of this Tribunal [of which the present Member (A) was also a member], the salient points of law had been recounted as below:-

“(a) The important case was the judgment of the Apex Court in Civil Appeal No. 13231 of 1996 DAD Vs. Susheel Kumar. In this case, it was held by the Apex Court that verification of character and antecedents is one of the important criteria to test whether the selected candidate is suitable to the post under the State. Further, the view taken was that the fact of the applicant having been discharged or acquitted of the criminal offences had nothing to do with the question of his appointment instead what would be relevant was the conduct or character of a candidate to be appointed to a service and not the actual result thereof. This

decision of the Apex Court has been heavily relied upon by the respondents in their counter affidavit.

(b) The next important judgment in this case, which we may mention is by the Delhi High Court in WP (C) No. 6042-43/2005 and other connected Writ Petitions in the matter of Government of NCT of Delhi and Ors. Vs. Deepak Kumar and Ors., decided on 28.11.2005. In this case, it was held that the mere fact that the applicant seeking appointment in Delhi Police who was involved in a criminal case had been acquitted, would not be enough to secure posting with Delhi Police. Further, it was decided that it was open for the department to deny appointment to a person, who might have been acquitted in a criminal case, but before such action is taken, the nature of offence in which he might have been involved and the manner of acquittal had to be properly examined.

(C) The issue has also been considered by the Tribunal in a number of cases. We may particularly refer to the decision in the OA No. 178/2008 (Anoop Kumar Vs. Govt. of NCT and Anr.) decided by a coordinate Bench (PB) of the Tribunal vide its order dated 23.7.2008 (Annex. A-5). In this order it was impressed that the denial of appointment to a citizen for all times to come is indeed a serious matter and cannot be taken lightly. This was more so when there was no finding of conviction by the criminal court. Distinguishing such a situation where the administrative authorities had no choice, it was opined that in cases where there had been no conviction, it became incumbent on the high ranking police officials to consider all the relevant aspects while dealing with a serious matter like denial of appointment to a citizen.

Reiterating the decision of the Delhi High Court in Deepak Kumar and Ors. (supra), the Tribunal had held that the nature of offence and the manner of acquittal must be gone into properly. While going into the details, it was felt that the nature of offence could not be exclusively determinable only on the label or the sections on which an FIR may be registered. Further, the attending circumstances leading to commission of crime, nature of offence that may appear from the contents of the First Information Report, statements of witnesses and the medical evidence, all attendant circumstances needed consideration. While considering

the manner of acquittal, merely observing that the witnesses had turned hostile was not found to be a sufficient ground to deny appointment to a citizen. On the other hand, the judgment of the criminal court had to be taken into consideration with all the aspects leading to acquittal.

Further, the ground of discriminatory treatment among similarly situated persons had also been given serious weightage while finally allowing the OA and giving the direction that the appointment to the applicant was not to be denied on the ground of his involvement in a criminal case.

(d)We also find it relevant that in the OA No. 2255/2009 (Praveen Yadav Vs. GNCT of Delhi and Ors.), decided by the Principal Bench again on 12.11.2009, the view was taken that in the realm of administrative discretion, the authorities even if acting as a quasi judicial authority would not be allowed to partake the character of judicial authority by recording a finding over and above the finding recorded by the Trial Judge. Both these decisions have been heavily relied upon by the counsel for the applicant”.

7.2 Perceiving the development of law on the given lines, in another OA 2853/2009 (Sudeep Kumar Vs. Commissioner of Police and Ors.), the same had been summed up in the following manner. The relevant extracts are being taken from the OA NO. 1642/2009 (Mahesh Dahiya VS. GNCTD) decided on 21.4.2010 (This is one of the relied upon decisions by the respondents):-

7. In light of the above, the summing up of the law in our recent judgment in Sudeep Kumar vs Commissioner of Police and Ors (OA No.2853/2009) is extracted as follows:-

“On the aforesaid basis, we may conclude the law on the subject by stating that whereas the respondents do indeed have a right to verify the character and antecedents of the applicant before issuing the final appointment order and also that mere acquittal in the criminal case would not entail a claim for suo moto appointment, in this case under the Delhi Police; at the same time, the matter needs a careful consideration by the respondents before denying a person the right for appointment for all times to come. Such a view cannot be taken lightly or

perfunctorey, and would only be justified after a very thorough consideration of all the attendant circumstances of the case and the order of acquittal. Besides, there is also the need for extreme caution in this respect so that the quasi judicial authorities do not over step their legitimate domain and give a finding over and above the findings recorded by a Trial Court. While dealing with such cases, discrimination also has been held to be an important ground.

To the above, we would like to add that the proposition about acquittal in a previous criminal case suo moto entailing the right for appointment of a provisionally selected candidate has not been laid down in any of the decisions on the subject. Similarly, right of the respondents to consider the matter of suitability of such a candidate in a sensitive force like the Delhi Police has also not been questioned. In fact, the host of cases cited before us in the OA deal with only specific aspects that need to be cautioned against while undertaking such an exercise of appraisal. On the other hand, what is required is a very thorough consideration of all the attending circumstances of the case, while carefully guarding the thin line of remaining within the legitimate domain and not overreaching the judicial findings. Arriving at hasty conclusions on isolated facts is also to be cautioned against.”

7.3 In Mahesh Dahiya’s case (OA No. 1642/2009 and the WP(C) No.6145/2010) and in Sanjeev Kumar’s case (OA No. 2429/2006 and the WP(C) 5782/2011), the law on the subject was developed further. All these four judgments find a place in the list of the judicial rulings relied upon by the respondents. In these cases, the law laid down was that it would be within the legitimate domain of the administrative authorities to consider the residual evidence-omitted from consideration by the criminal court-while determining the issue of suitability of a person for appointment under the Delhi Police.

7.4 Daya Shankar Yadav Vs. Union of India and Ors. (CA No.9913/2010): Even though this case had primarily pertained to the issues of non-disclosure of the criminal antecedents in the forms before the appointment; the Hon’ble Apex Court had also considered and endorsed the refusal of appointment to a prospective employee despite the requisite disclosures (in the affirmative) in the relevant

forms. It was inter alia ruled that in such cases, where a person had been convicted or acquitted by giving benefit of doubt for want of evidence, the employer may refuse to offer employment.

7.5 Commissioner of Police and Ors. Vs. Sandeep Kumar, JT 2011(3) SC 484: Sandeep Kumar's case had arisen out of denial of appointment to a provisionally selected candidate under the Delhi Police regarding his non-disclosure in the application form about his involvement in a criminal case under Section 325/34 IPC. Not upholding the impugned decision, the Hon'ble Apex Court advocated the approach to condone minor indiscretions made by young people rather than brand them as criminals for the rest of their lives. Even the fact of a fear of such disclosure leading to automatic disqualification had been taken note by the Hon'ble Apex Court. However, while laying down such a proposition, a distinction was made in respect of serious offences like murder, decoity or rape, where a lenient view was not advocated.

8. The case against the applicant was u/s 302/506 of the IPC. Section 302 pertains to the punishment for murder being death or imprisonment for life along with fine. Section 506 pertains to punishment for criminal intimidation. In cases, where the threat be to cause death or grievous hurt (as in the present case), the punishment prescribed is up to seven years or fine or both. Along with the OA, a copy of the judgment of the Trial Court acquitting the applicant along with the co-accused has been enclosed.

8.1 The prosecution case briefly was that the complainant Shri Ram Pal Singh had reported on 12.7.2007 at 9 AM about his son Nardev along with Kavinder and Amichand having gone to collect Rs.50,000/- of partnership contract of electrical works from one Rajender. On demand of money, the said Rajender and his son Chunmun (alias Deepak Kumar, the present applicant) had asked them to come to the garden with a promise to make the required payment. However, on reaching there, the accused persons were stated to have threatened Nardev with dire consequences for demanding money. Further, on 11.30 AM, the said Deepak Kumar had fired on the complainant's son Nardev who had collapsed there only and died. The other two persons Kavinder and Aminchand, who had witnessed

this incident, had somehow managed to flee and save their lives. Dead body of Nardev was alleged to have been picked up by both the accused persons from the garden and thrown near their house.

8.2 However, in course of trial, all the prosecution witnesses, including the complainant (the deceased's father) as well as the two eye witnesses, had resiled from their earlier statements. The said Ram Pal had deposed about the complaint having been recorded by him on the basis of the incident narrated to him by the villagers. He had also denied any business or transaction of money of the accused along with his son. He had also stated about his not having given any statement to the police with regard to the incident. Even the other two witnesses-who were supposed to be the eye witnesses of the entire incident-had denied about having witnessed the same. They had also denied either having met the deceased that day or having accompanied him to the site of the alleged incident on the given date. In fact, they had deposed about seeing the accused persons in the court on the first time that very day.

8.3 All these prosecution witnesses had been declared hostile and taking this into account the learned trial court had arrived at the conclusion of the prosecution having failed to prove the charge framed against the accused persons u/s 302/506 of the IPC. Therefore, the father Rajender Singh and his son Deepak Kumar had been acquitted.

8.4 However, in this very case, besides the evidence of the prosecution witnesses, there were certain documentary evidences also. The relevant extracts from the trial court's judgment are reproduced as hereunder:-

"In the oral evidence on behalf of complainant, Rampal P.W.-1, Ami Chand Singh-P.W.2 and Kavinder P.W.3 have been produced. In the documentary evidence on behalf of complainant, report of complainant-Exh.A-1, Chik FIR-Exh. A-2, copy of Report No.35/14.30 dated 12.7.07-Exh. A-3, site map of place of occurrence-Exh.A-4, seizure memo of license of double barrel 12 Bore-Exh.A-5, seizure memo of blood stained soil and ordinary soil-Exh.A-6, seizure memo of pant-shirt, purse and Dari-Exh. A-7, seizure memo of double barrel gun and shell of cartridge-Exh.A-8, Panchaytnama-Exh.A-9, Receipt of sending the dead body-

Exh.A-10, letter sent by Police Station Garhmukteshwar to Chief Medical Officer-Exh.A-11, specimen seal-Exh.A-12, sketch of dead body Exh.A-13, Post-mortem Report-Exh.A-14 and charge-sheet-Exh.A-15 have been filed.”

8.5 While arriving at the conclusive findings, there was no consideration whatsoever of these documentary evidence.

9. Having considered the respective submissions, the facts on record and the law on the subject carefully, our findings in the matter are as below:-

9.1 Admittedly, the present case is not one of non-disclosure of the criminal case by the candidate. Had there been the non-disclosure, surely, that would have been an additional dimension. But the factum of non-disclosure would not suffice as a ground to claim entitlement to government appointment. We are unable to accept the plea taken by the applicant of such a disclosure itself indicating a high moral integrity. Even the reliance placed on the Apex Court’s judgment in Dhawal Singh’s case (supra) is not relevant considering the distinguishable facts of the present case.

9.2 Likewise, the acquittal in the criminal case per se would not confer the said entitlement for appointment under the government. The judicial rulings cited in this context regarding the stigma of involvement in a criminal case being erased by the acquittal, as a general principle, are in a different factual context. What is relevant in the present context is the suitability or otherwise of a candidate for appointment particularly in the Delhi Police. This point is abundantly borne out by the decision of the Delhi High Court dated 10.9.2010 in WP(C) No. 6145/2010 in Mahesh Dahiya Vs. GNCTD and Anr. Referring to its earlier decision dated 25.10.2010 in WP (C) 2068/2010, Govt. of Delhi and Anr. Vs. Robin Singh, the following was observed:-

“We had emphasized in the said decision that the issue had not to be decided with reference to a person being convicted or acquitted at a criminal trial. The nature of the acquisition, the quality of the evidence and the offence charged of were held by us as requiring consideration.

9. Our observations and findings as also conclusions, briefly culled out by us hereinabove, are sought to be pressed in by learned counsel for the petitioner who urges that since the petitioner has been acquitted at the criminal trial, he cannot be deprived employment.

10. We are afraid that we cannot concur.”

9.3 The applicant’s contention alleging ‘mechanical’ and ‘misplaced’ application of the Supreme Court’s decisions in Sushil Kumar’s and Daya Shankar Yadav’s cases (*supra*) is also not found to be tenable.

Even though, in Sushil Kumar’s case, the provisionally selected candidate had not disclosed the record of his criminal antecedents and on that ground, the view taken by the appointing authority regarding non-appointment had not been held to be unwarranted; the observations of the Hon’ble Apex Court about the verification of character and antecedents being an important criteria to test the suitability of a selected candidate to a post under the State; and the factum of the discharge or acquittal of a criminal offence having nothing to do with the question of appointment was equally relevant in cases like the present one. The proposition of law about the conduct and character of a candidate rather than the actual outcome of the criminal case being the material factor, would have equal relevance in cases assessing a candidate unsuitable for the post in Delhi Police, on the ground of criminal antecedents despite such a disclosure. The cases cited as deviations (Omveer Yadav and Radha Krishnan (*supra*)) were distinguishable and would not affect this basic ratio. Even in Daya Shankar Yadav’s case (*supra*), while dealing primarily with the issue of non-disclosure of involvement in a criminal case, the Hon’ble Apex Court had considered the consequences visiting an employee or a prospective employee making affirmative answers to the queries. Para 9(a) had dealt with the scenario of an employer refusing offer of appointment or discharging from service an already employed probationer in cases where the acquittal was by giving benefit of doubt for want of evidence. Further Para 9(b) had mentioned that where the criminal cases disclosed relating to offences ‘which were technical, or of a nature that would not affect the declarant’s fitness for employment’ or where the declarant had been honourably acquitted and exonerated, the fact of prosecution in

a criminal case may be ignored.

9.4 The plea of the cancellation in this case being in contravention to the condition of eligibility prescribed in the relevant RRs, on consideration had been rejected by the Hon'ble Delhi High Court in the WP (C) No.5782/2011 (Sanjeev Kumar Vs. GNCTD and Ors.). The Hon'ble High Court had disfavoured the submissions made on behalf of the petitioner in that case, that while considering the factum of antecedents, neither the competent authority nor the Tribunal could have entered into the reasons of acquittal or the nature of acquittal and the trial court's judgment was binding in nature.

On similar grounds, reference to the conditions of cancellation of candidature being adverted to by the applicant's counsel would not help the case.

9.5 Another plea taken is that the impugned decision is not in consonance with the modern reformatory approach. Even though the decision being relied upon i.e. State of Madhya Pradesh Vs. Rama Shanker Yaguvanshi-pertaining to an election issue-would not be relevant in the present case; however, we are seized with the shift of emphasis towards the reformatory aspect in such cases. In some of the recent pronouncements, even in respect of appointment in Delhi Police, the superior courts have been sensitive to the aspect as to whether a person, who had a brush with criminal law, whether convicted or acquitted, should or should not be denied public employment. To cite just a few rulings, the decision of the Delhi High Court on 25.8.2010 in the WP(C) 2068/2010, Govt. of Delhi and Anr. Vs. Robin Singh, may be referred. The most quoted decision in this case is the view taken by the Hon'ble Apex Court in that Commissioner of Police and Ors. Vs. Sandeep Kumar, JT 2011(3) SC 484, where the Hon'ble Apex Court had put its weight clearly in favour of a reformatory approach rather than branding a person-particularly one, who had done a minor offence or was alleged to have done it-at a tender age to be stigmatized for the whole life.

However, even in these cases, the gravity of offence as a relevant factor, while determining the issue of suitability to a public employment, had never been lost sight of by the Hon'ble Apex Court. While advocating a lenient approach and the doctrine of condoning minor indiscretion made by the young, clear exceptions had

been made in respect of serious offences like murder, dacoity or rape.

Hence, it would not be correct to say that even in cases involving grave offences-where a person gets acquitted in a criminal court-he is to be further rewarded by an appointment to a post under the state.

9.6.1 The present case is found to be one in which applicant along with the co-accused had been charged u/S 302/506 of the IPC. The acquittal had been ordered by the criminal court on the grounds of all the witnesses having been declared hostile. However, while taking this view, there had been no consideration of the fact of the victim in this case (son of the complainant himself) having actually been killed. The several documentary evidences which could have proved as important circumstantial evidences to prove the guilt of the accused persons, had not been taken note by the learned trial court. The details of such evidence have been recorded in the judgment of the trial court itself extracted above in para 8.

We find the present case as squarely covered by the decisions in Mahesh Dahiya and Sanjeev Kumar's cases (supra). In both these cases, the action of the respondents regarding cancellation of candidature had been upheld at the level of the Tribunal as well the High Court on similar grounds of gravity of the offences and non-consideration of the residual evidence by the criminal court while passing the order of acquittal.

In Mahesh Dahiya's case, the applicant along with two others had been charged with having kidnapped a minor girl and having demanded ransom money for her release. The criminal court had acquitted all the accused on account of the prosecution witnesses i.e. victim, her father and brother having turned hostile. While not going by the mere factum of acquittal, the Hon'ble High Court had taken note of the residual evidence throwing negative light upon the petitioner. These had included the signatures of the father and brother of the victim on the recovery memos relating the ransom money (fake bundles). Their signatures on the arrest memos (all the accused had been arrested in this case); and the statements of the two independent witnesses about testifying the stay of one of the co-accused along with the young girl in a hotel.

In this context, the Hon'ble High Court had made the following observations:-

“11. Our reasons for so holding is that the acquittal of the petitioner is on account of the principal players i.e. the star witnesses of the prosecution turning hostile. But, there is enough residual evidence which throws negative light upon the petitioner. We hasten to add that the burden of proof at a criminal trial being one of proof beyond reasonable doubt would not mean that the evidence cannot be kept in mind for purposes of deciding the propensity, criminal tendencies etc. of a person.”

9.6.2 In Sanjeev Kumar's case, the applicant had been charged under Sections 302/307 of the IPC, though subsequently had been acquitted by the criminal court. In this case also, one of the victims had died and other sustained grievous injury. The trial court had acquitted the accused as the witnesses had resiled from their earlier statements and had stated about not being present at the time of the incident. However, the learned coordinate Bench had taken note of the fact that the statement of the person, who was injured, was also relevant and could have thrown light on the manner in which the incident had occurred and involvement of the accused persons.

9.6.3 Even at the cost of repetition, we find the present case being squarely covered by these two judgments. The offences charged are gravest in nature and the trial court's judgment of acquittal is only on the basis of the prosecution witnesses having turned hostile, without considering the vital documentary evidence in the case.

9.7. As has been mentioned above, according to the law developed on the subject, each case needs to be examined as per its own peculiar facts and circumstances. We have, therefore, not found it necessary to look into details of the other judicial rulings referred on behalf of the applicant.

10. To conclude, having carefully considered the case of the applicant, the various defence pleas advanced and judicial rulings cited in support, we do not find any ground whatsoever to interfere with the decision of cancellation of candidature by the respondents.

Finding no merit, the OA is dismissed with no order as to costs.

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