

Devender Kumar Yadav Vs. Govt. of Nct of Delhi and Another

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Court : Delhi

Decided On : Mar-30-2012

Judge : Badar Durrez Ahmed & K. Jain

Appeal No. : W.P.(C) 8731 OF 2011

Appellant : Devender Kumar Yadav

Respondent : Govt. of Nct of Delhi and Another

Judgement :

V.K. JAIN, J.

1. This writ petition is directed against the order dated 31.05.2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the Tribunal) whereby OA No. 97/2010 filed by the petitioner, was dismissed. The brief facts giving rise to filing of this petition are as follows:

An advertisement was issued by Delhi Police in the year 2007 for filling up 2536 vacancies in the cadre of Constable (Executive) Male. The petitioner, who applied for the said post was successful in Physical Endurance and Measurement Test, written test and interview and was declared as provisionally selected subject to verification of character and antecedents. In his application form, the petitioner had disclosed that he had been involved in a criminal case registered vide FIR No. 32, dated 07.03.2006. Yet another FIR No. 149 dated 04.09.2007 was registered against the petitioner at Police Station Farukh Nagar, Gurgaon on 04.09.2007.

Registration of both the criminal cases was disclosed by the petitioner in the Attestation Form filled up by him on 03.11.2007. Since both the criminal cases registered against the petitioner were pending trial, his appointment to the post of Constable (Executive) Male was kept in abeyance. Subsequently, the petitioner was acquitted in both the criminal cases and accordingly he, by an application dated 18.09.2008, requested that he may be allowed to join Delhi Police as Constable (Executive). The Screening Committee of Delhi Police noticing the involvement of the petitioner in the said criminal cases found him unsuitable for appointment, despite the fact that he had been acquitted in both the cases. A show-cause notice was issued to the petitioner proposing cancellation of his candidature and the candidature of the petitioner was cancelled on 23.12.2008. OA No. 483/2009 was filed by the petitioner challenging the aforesaid order passed by the respondents. The Tribunal, vide order dated 11.08.2009, quashed the said order and remanded the matter to the respondents to consider the reply submitted by the petitioner to the show-cause notice and to then pass appropriate orders. Pursuant to the directions of the Tribunal, the case of the petitioner was considered and rejected by a speaking order dated 15.10.2009. The order dated 15.10.2009 was challenged vide OA No. 97/2010 which came to be dismissed by the Tribunal on 31.05.2011.

2. It is an admitted position that the involvement in the criminal cases was duly disclosed by the petitioner in the Application Form as well as the Attestation Form. Therefore, this is not a case of a person trying to obtain appointment to a public office by playing a fraud or by concealing a material fact. This is also an admitted case before us that neither the advertisement published in the newspapers nor the terms and conditions on which appointments were sought to be made by the respondents, disqualified a person involved in a criminal case, from applying or being appointed to the post of Constable (Executive) Male in Delhi Police. Hence, it cannot be said that merely on account of his involvement in the criminal cases and despite acquittal in those cases the petitioner was per se ineligible for appointment to the post of Constable (Executive) Male in Delhi Police.

3. The minutes of the Screening Committee, whereby the petitioner was held unsuitable for employment in Delhi Police, inter alia, read as under:-

“The Committee under the chairmanship of Shri Qamar Ahmed, Joint CP/Hqrs. including Shri L. C. Jain, LA to CP/Delhi as members met on 06.11.2008 to examine the suitability of candidate Devender Singh Yadav (Roll No.900503) in detail keeping the nature of his involvement, gravity of offence, judgment of the Court and also the grounds of acquittal

Keeping in view the aforesaid facts, the judgment of the Hon'ble Supreme Court of India dated 04.10.1996 in Civil Appeal No.13231 of 1996 (arising out of SLP (C) No.5340 of 1996 DAD vs. Sushil Kumar), the Committee recommended as follows:-

FIR No.32/2006, u/s 325/506 IPC, P.S. Farrukh Nagar, Gurgaon, Haryana. FIR No.149/2007, u/s 323/325/34 IPC, P.S. Farrukh Nagar, Gurgaon, Haryana. (In both the cases, Shri Davender Singh Yadav has been acquitted by the Court).

In FIR No.32/2006, u/s 325/506 IPC, the accused has been acquitted because the main witness has not supported the prosecution case qua the fact that the injuries on his person were caused by the accused. The main witness turned hostile and was declared so. In FIR No.149/2007, u/s 323/325/34 also the main witness did not support the prosecution story. He was declared hostile by the prosecutor. The Hon'ble Court recorded that benefit of doubt would go in favour of the accused and the accused were acquitted accordingly.

The candidate Shri Davender Singh Yadav had two criminal cases to his discredit. In both the cases there were allegations of use of violence and force. It shows that he has the propensity to use force at slightest provocation. Accordingly, he is not considered suitable for employment in Delhi Police and hence the Committee is of the opinion that he is not fit for police service.”

4. It would thus be seen that the Screening Committee held the petitioner to be unsuitable for appointment as a Constable (Executive) in Delhi Police solely on the ground that in the FIRs, which were registered against the petitioner, there were allegations of use of violence and force, which indicated that he had the propensity to use force at the slightest provocation. Since the allegations of use or force and violence which were the subject matter of FIR No. 32/2006 registered under

Section 325/506 and FIR No. 149/2007 registered under Section 323/325/34 of IPC registered at Police Station Farrukh Nagar, Gurgaon, could not be established during the criminal trial to which the petitioner was subjected and admittedly no independent inquiry was held by the respondents to verify those allegations, the question which comes up for our consideration in this case is as to whether the petitioner could have been held unsuitable to be employed in Delhi Police solely on account of those very unsubstantiated allegations, particularly when the offences, which were the subject matter of the said FIRs cannot be said to be heinous crimes or offences involving moral turpitude.

5. It cannot be disputed that an employer, before appointing a person, is entitled to assess his suitability for the job on offer and for this purpose, the employer can also take into consideration the antecedents, including past misconduct, if any, of the candidate. It also cannot be disputed that no person, despite his selection has an indefeasible right to be appointed to a post. It would, however, be difficult to dispute that in the matters relating to public employment a person who is found eligible and is duly selected in the recruitment process cannot be denied appointment arbitrarily and without a valid justification for such a denial. It is difficult to say that a person, accused of committing an offence can be denied appointment to a public office, even when the allegations did not constitute a heinous offence and could not be substantiated during the trial, to which he was subjected.

6. In **Commissioner of Police and Others v. Sandeep Kumar: (2011) 4 SCC 644**, the respondent before the Supreme Court, while replying to Clause 12(a) of the application form whereby he was asked as to whether he had been arrested, prosecuted, kept in detention or bound down, fined or convicted by Court of law for any offence, replied in the negative and thereby he made a false statement in the application form. The respondent in that case had applied for the post of Head Constable (Ministerial) in 1999. He had already been acquitted on 18.1.1998, pursuant to his compromise with the injured in the case which was registered against him under Section 325/34 of Indian Penal Code. However, while filling up the attestation form, after he had qualified for the post, the respondent disclosed his involvement in the criminal case, as also his acquittal based on the

compromise. The candidature of the respondent having been cancelled he filed an OA before the Tribunal, which was dismissed. The Writ Petition filed by him was allowed by this Court. Dismissing the appeal filed by the Commissioner of Police and Others, it was held by the Supreme Court that cancellation of the candidature of the respondent was illegal. The Supreme Court noted that the incident had happened at a time when the respondent would be about 20 years old and observed that at that age young people often commit indiscretions, such indiscretions can often be condoned and therefore the approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives. The Court felt that probably while filling up the application form the respondent had not disclosed his involvement in the criminal case out of fear that if he did so, he would automatically be disqualified. The Court was of the view that since the offence alleged against the respondent was not a serious offence like murder, dacoity or rape, a more lenient view should be taken in the matter.

7. In **Civil Appeal No. 7106/2011 Ram Kumar v. State of UP And Others** decided on 19.8.2011, the appellant before the Supreme Court, while applying for the post of a Constable had submitted an affidavit stating therein that no criminal case had been registered against him. It was on a report submitted by Jaswant Nagar Police Station in District Etawah that his involvement in a criminal case registered under Section 324/323/504 IPC came to be known. On receipt of the aforesaid report the selection of the appellant was cancelled on the ground that he had submitted an affidavit stating wrong facts and concealing correct facts and therefore his selection was irregular and illegal. The appellant filed a Writ Petition before the Allahabad High Court challenging the cancellation of his selection. The Writ Petition was dismissed holding that since the said appellant had furnished false information in his affidavit, the case was squarely covered by the decision of Supreme Court in **Kendriya Vidyalaya Sangathan And Others v. Ram Ratan Yadav: (2003) 3 SCC 437**. The Supreme Court noted that the appellant had been acquitted since the sole eye witness had stated during his examination in the Court that someone from the crowd had hurled abuses and in the scuffle he had got injured when he fell and his head hit a brick platform. Allowing the appeal, Supreme Court set aside the order passed by the learned Single Judge and the

Division Bench of Allahabad High Court and directed that the appellant be taken back in service though he would not be entitled for any back wages for the period he had remained out of service.

8. In **Government of NCT of Delhi and Anr. v. Robin Singh 2010 (4) JCC 2821**, a Division Bench of this Court was called upon to consider as to whether the pendency of a criminal proceeding or a conviction or a criminal proceeding which has already been terminated either in conviction or acquittal can be a justified ground to dismiss a Government servant from service or deny entry into Government service. In the above case, the respondent before this Court submitted an application on 10.11.2007 for appointment to the post of Sub-Inspector (Executive) in Delhi Police. He was provisionally selected subject to his being medically fit and his character and antecedents being verified. While filling up the Attestation Form, the respondent, though required to disclose, withheld the information that a criminal case was pending against him in a Court of law. While considering the question as to when a Government servant can be removed from or prohibited entry in Government service, this Court was of the view that it would be a serious violation of the Constitutional right of a citizen to be fairly treated in the matter of public employment, if trivial offences committed by them would justify, denial of employment to them. In this regard, the Court, inter alia, observed as under:-

“Now, a man can be booked for the offence of over-speeding and perhaps may be convicted for parking his motor vehicle in a non-parking area. Would this man be of a character, compelling in public interest and for public good, not to induct him in public service? The answer would be in the negative. As against that, a man has committed murder or has broken into a departmental store and stolen cash. Would this man be of a character, compelling in public interest and for public good, not to induct him in public service. The answer would be in the affirmative.

We have a clue; of offences being grave, serious and involving a moral turpitude justifying public employment not being given. These would certainly not justify the offender being inducted into public service. None would disagree that convicted and fined for parking a car in a no- parking area or convicted for over-speeding

would attract the de minimis principle, but the problem would be in cases closer to the borderline. For therein would lie the problem as to in which side of the boundary line should they be categorized. That apart, as generically understood, offences involving moral turpitude can be classified with reference to the act being one which shocks the moral conscience of the society in general and this can be determined with reference to the motive of the offender i.e. whether the motive which led to the act was a base one or alternatively whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society.”

With respect to the case before it, the following view was taken by this Court:-

“What is the gravamen of the allegation constituting the act committed by the respondent which was treated as voluntarily causing hurt is not known to us. What was the nature of insult heaped upon the complainant which attracted the offence punishable under Section 504 IPC and what was the act which attracted the crime of criminal intimidation is also not known. But from a trinity of the three i.e. the alleged offence punishable under Section 323 IPC, Section 504 IPC and Section 506 IPC we can safely presume that the allegation against the respondent was of abusing the complainant and threatening to beat him followed by simple beating.

All these offences are non-cognizable and needless to state are bailable. No moral turpitude, as generically understood, is involved. The acts do not shock the moral conscience of the society and with reference to the motive do not evidence a person with depraved character. The offences are not of the kind which would justify dismissal or removal from service, if the respondent had committed the same if in service.

Thus, being charged with the said offences, of which the respondent has ultimately been acquitted, would not be a bar and cannot be treated as a bar to seek public employment and on being successful at the entrance exam, to be denied the same.

The last issue which we need to discuss is, whether the respondent should be denied employment in the Police department. It was urged by learned Counsel for

the petitioner that persons who have a brush with criminal law, even if they are acquitted, are undesirable elements to be inducted as Police Officers. As stated above, there are no guidelines available with the petitioner to declare as to who is undesirable element to prohibit his induction in Delhi Police.

The respondent was born on 21.05.1987. The age of the respondent when he was made an accused in the Non-Cognizable Report would be 19 years. The trivial offence of what he was charged of, in which he has been acquitted, cannot make him a criminal of a kind where public interest requires his non-induction in the Police force and that too as a Sub-Inspector (Executive) and that means his duties would be clerical and not with arms and surely not on the streets requiring him to deal with public. Assuming that the petitioner did the acts of which he was accused of, the same is a trivial brawl which he had in the village. Some fist blows with choicest abuses in tandem were hurled at the victim.”

9. In **Commissioner of Police v. Naveen Kumar Mandiwaandi WP(C) 7808/2011** decided on 2.11.2011, the respondent before this Court was appointed to the post of Constable (Executive) Male in Delhi Police. While he was working with Delhi Police, it came to the knowledge of the department that he was facing trial in a case registered under Section 143/341/323 IPC and this information had not been disclosed by him while submitting the application for appointment to the aforesaid post. Consequently, his services were terminated by the Commissioner of Police, Delhi. The OA filed by him, having been allowed by the Tribunal, the matter reached this Court by way of a Writ Petition filed by the Commissioner of Police, Delhi. It was noted by the Court that the case against the petitioner had resulted in a compromise leading to his acquittal. Considering that the offence alleged against him was not serious nor had he been convicted for that offence and following the decision of Supreme Court in **Sandeep Kumar** (supra), the Writ Petition challenging the order of the Tribunal was dismissed by this Court. In **GNCT of Delhi And Another v. Dinesh Kumar WP(C) 5510/2010** and **GNCT of Delhi And Another v. Subhash Chand WP(C) 5510/2010** decided on 11.11.2010, one of the respondents before this Court was issued a letter of appointment to the post of Constable (Executive) whereas the other respondent was issued a letter of offer for appointment to the post of Sub-Inspector

(Executive). The final appointment however, was denied to both of them on the ground that one of them viz. Dinesh Kumar was an accused in a case registered under Section 307/323/324/34 IPC whereas the other one was accused of having committed offence punishable under Section 321/341 IPC. Dinesh Kumar, FIR against whom was registered on 4.7.2006 was acquitted on 15.9.2008 whereas Subhash Chand one FIR against whom was registered in the year 1999 and the other in the year 2003 was acquitted pursuant to a compromise with the complainant. Relying upon its earlier decision in **Robin Singh** (supra), this Court held that as far as Subhash Chand was concerned, considering the nature of the offences alleged to have been committed by him, coupled with his young age at the time of the alleged commission of offences, he would not be barred from getting public employment. Regarding Dinesh Kumar noticing that two witnesses had turned hostile and the acquittal was on merits, the Court was of the view that the order passed by the Tribunal directing Commissioner of Police to give employment to him called for no interference.

In **Delhi Police And Another v. Omveer Yadav WP(C) 12899/2009** decided on 19.4.2010, the respondent before this Court was selected for appointment as Constable (Executive) in Delhi Police. His candidature was however, cancelled on the ground that he was involved in a criminal case registered under Section 392/34 IPC in which he was discharged by the Magistrate on 24.11.2006. Despite his having disclosed these facts in the application form the cancellation of candidature was challenged by the respondent before the Tribunal which quashed the cancellation and directed the Delhi Police to appoint the respondent, if he was otherwise found fit. It was contended before this Court that a person who was accused in a case of robbery could not be permitted to work in Delhi Police. It was also contended that the respondent was not identified by the complainant probably on account of undue pressure from him. The petitioner before this Court relied upon the decision of Supreme Court in **Delhi Administration And Others v. Sushil Kumar: (1996) 11 SCC 605** and **R. Radhakrishnan v. Director General of Police And Others: AIR 2008 SC 578**. Considering that the alleged involvement in that case was under Section 304/324/34 of IPC, the case of **Sushil Kumar** (supra) was distinguished. As regards the case of **Radhakrishnan** (supra), it was distinguished noticing that while submitting the application he had concealed the

fact that he had been involved in the criminal case whereas the respondent before this Court had not concealed any material fact.

In **Government of NCT of Delhi And Another v. Jai Prakash** WP(C) 3566/2010 decided on 24.5.2010, the respondent before this Court, while applying for employment with Delhi Police had disclosed that a case had been registered against him under Section 32/33 of the Forest Act, 1927 read with Section 379 of IPC and was in progress. On acquittal in the aforesaid case, the respondent informed the authorities accordingly. The acquittal was on account of the prosecution failing to establish its case through cogent or direct evidence. However, the candidature of the respondent as Sub-Inspector in Delhi Police was cancelled, after his case had been examined by a Screening Committee constituted by Commissioner of Police, Delhi. In recommending cancellation of the candidature of the respondent, the Screening Committee relied upon the decision of Supreme Court in **Sushil Kumar** (supra). The cancellation of candidature was challenged by the respondent before the Tribunal which held in his favour. Dismissing the Writ Petition filed by the Government of NCT of Delhi against the order of the Tribunal, this Court inter alia held as under:

Mere involvement in a criminal case or registration of FIR is not a proof of involvement in a criminal offence unless the trial court, which is the only competent forum to record a finding as to the guilt of an accused in a criminal offence, delivers the verdict holding one guilty of the offences.

Insofar as the benefit of doubt and hostility of witnesses are concerned, these are the aspects, which will not be material or relevant to record a finding by the administrative authorities as to involvement of the person in criminal activity or his being guilty of committing the crime. What is allowed to the administrative authorities is to adjudge the suitability of a person but not in the manner that whatever recorded on judicial side by the court of criminal jurisdiction should be overreached and overridden by taking a definite view or reading between the lines in the judgment to arrive at a finding of guilt. It is trite in law that if the acquittal by a trial court is not challenged by the prosecution in higher forum by making an appeal against the acquittal, the decision of the trial court acquitting the accused

stands final and cannot be questioned or interpreted otherwise by administrative authority, which is coram non judice in the circumstances.

10. In **Ghurey Lal v. State of Uttar Pradesh: (2008) 10 SCC 450**, Supreme Court reiterated that an accused is presumed to be innocent until proven guilty. It was observed that an acquittal in the criminal trial only bolsters the presumption of innocence which is available to every person accused of committing a criminal offence.

Recently, in **Government of NCT of Delhi And Another v. DaulatRam WP(C) 734/2012** decided on 10.2.2012, the respondent before us, who was provisionally selected for the post of Constable (Executive) in Delhi Police was denied appointment on the ground that he had been involved in a criminal case registered under Section 323/341/324/325 read with Section 34 of IPC, which had resulted in his acquittal based on a compromise. Noticing that the involvement in the criminal case had been disclosed by the respondent not only in the attestation form but also in the initial application form submitted by him and relying upon the decisions of Supreme Court in **Sandeep Kumar** (supra) and **Ram Kumar** (supra), this Court upheld the view taken by the Tribunal that the petitioners were not justified in denying appointment to the respondent.

11. The learned Counsel for the respondents has placed reliance on **Commissioner of Police v. Ranvir Singh WP(C) 6518/2011** decided on 20.12.2011. In the aforesaid case the respondent before this Court was accused of offences punishable under Section 332/353/186/285/506 read with Section 34 IPC and Section 25 of Arms Act, 1959. He was provisionally selected for appointment as Sub-Inspector (Executive) in Delhi Police but was later denied appointment on account of his involvement in the criminal case. The Tribunal, however, quashed the order cancelling the candidature of the respondent. Noticing that the case of the respondent had been examined by the Screening Committee formed by Commissioner of Police, which had given detailed reasons in support of the view taken by it. This Court held that the petitioner was fully entitled to consider the factum of charge against the respondent and therefore the order passed by the Tribunal was liable to be set aside. A perusal of the speaking order

passed by the Screening Committee in that case would show that the respondent Ranvir Singh, when checked at the place of incident, was found in possession of a pistol which indicated that he was the person who had fired. It was also noticed that the case against the respondent was registered on 30.5.2008 after he had already submitted the application form on 12.11.2007 and attestation form on 28.3.2008 and this information was not conveyed by him to DCP/4th Battalion, though he was required to indicate the same to him. In this regard, the Screening Committee referred to the instructions mentioned on the forms whereby the candidate was required to communicate to DCP/4th Battalion in case he was arrested/detained/convicted subsequent to submission of the forms and failure to do so was to be deemed to be suppression of factual information. This case, therefore, is clearly distinguishable on facts. The respondent before this Court is not involved in a case under the Arms Act, there is no allegation of his having been found in possession of a fire arm or a prohibited arm and there has been no suppression of any material fact on his part, since involvement in the criminal case was duly disclosed by him. We would also like to note that this decision was rendered by the same Bench which had rendered the decision in **Naveen Kumar Mandiwaandi** (supra) case.

The learned Counsel for the respondent has also relied upon **Gokul Ram Meena v. Government of NCT of Delhi And Others: 177(2011) DLT 471 (DB)**. In the aforesaid case, a criminal case under Section 143/341/323/354 IPC had been registered against the petitioner before this Court, who had been provisionally selected for appointment to the post of Constable (Executive) Male in Delhi Police. He was convicted under Section 143 of IPC but acquitted of other charges. The candidature of the petitioner having been cancelled, he filed an OA before the Tribunal challenging the order of cancellation of his candidature. The OA having been dismissed, he filed the aforesaid Writ Petition against the order passed by the Tribunal. The contention before this Court was that the petitioner had been acquitted in respect of the charges other than the charge under Section 143 IPC whereas he had been given benefit of probation under Section 143 of IPC and therefore cancellation of his candidature was illegal. Relying upon the decision of Supreme Court in **Sushil Kumar Singhal v. The Regional Manager, Punjab National Bank: 2010 (IV) LLJ 297 (SC)**, this Court held that despite benefit of

probation having been given to the petitioner, there was no reason to uphold his contention. It would thus be seen that the petitioner in the above referred case was convicted of rioting. On the other hand, the respondent before this Court has not been convicted for commission of any offence and has been acquitted on the ground that the prosecution had failed to prove the charge against him. This judgment therefore does not apply to the facts of the case before this Court.

12. As noted earlier, the petitioner before this Court had duly disclosed his involvement in the criminal cases. No fresh case was registered against him after he had filled up the attestation form on 3.11.2007. Hence, there was absolutely no concealment on the part of the petitioner. Hence, it cannot be said that the appointment was obtained by him by playing fraud or by concealment of some material fact. The acquittal of the petitioner in the criminal case was not a technical acquittal since he was not acquitted on account of some legal defect such as want of a statutory sanction or prosecution being barred by limitation. A perusal of the judgment whereby the petitioner was acquitted on 2.8.2008 would show that the material witness viz. injured-cum-eye witness Virender was examined by the prosecution. He, however, stated that the injuries to him were not caused by the accused person in the Court, which included the petitioner Davender. The petitioner was therefore given benefit of doubt and acquitted of the charges for which he was prosecuted. A perusal of the judgment dated 11.4.2008 whereby the petitioner was acquitted in the second case registered against him would show that the complainant and injured Ram Avtar was duly examined as PW-1. He, however, stated that the injuries were sustained by him when he was trying to pacify 3-4 persons, who were fighting with each other. He maintained that the accused Devender was not the person, who had caused injuries to him. It was therefore held by the trial Court that the prosecution had failed to discharge the burden placed on it and the accused therefore deserved acquittal. Such acquittals, where the material witnesses are produced during trial, but, they do not support the case of the prosecution, to our mind cannot be said to be technical acquittals. We cannot accept the contention that only a case, where the accused is acquitted despite material witnesses supporting the case of the prosecution on merits, would be a case of acquittal other than technical acquittal. We cannot presume that a witness, who does not support the case of the prosecution is necessarily doing so

in collusion with the accused, in order to save him from punishment, despite his actually having committed the offence, with the commission of which he is charged. It may be true in some cases, but may not necessarily be so in each case. What has to be seen in such cases is as to whether the material witnesses were examined or not. If they are examined, but do not support the prosecution and consequently it is held that the charge against the accused does not stand proved, that would not be a case of technical acquittal. We would like to note here that no independent inquiry was held by the respondents to verify the truthfulness or otherwise of the allegations which were made against the petitioner in the FIRs that were registered against him.

The Screening Committee which considered the case of the petitioner had no material before it which could give rise to an inference that the petitioner had actually committed the offences for which he had been prosecuted. As noted earlier, there is a presumption of innocence attached to an accused in a criminal case and the onus is on the prosecution to prove the charges leveled against him. Acquittal of the accused, after trial, only strengthens and reinforces the statutory presumption, which is otherwise available to him. We, therefore, hold that the view taken by the Screening Committee was not based on some legally admissible material and therefore cannot be sustained in law. The case of the petitioner before us is squarely covered by the decisions of Supreme Court in **Sandeep Kumar** (supra) and **Ram Kumar** (supra) as well as by the decisions of this Court in **Robin Singh** (supra), **Naveen Kumar Mandiwaandl** (supra), **Dinesh Kumar** (supra), **Omveer Yadav** (supra), **Jai Prakash** (supra) and **Daulat Ram** (supra). In fact the case of the petitioner, before us stands on a much stronger footing than the cases of Sandeep Kumar (supra), Ram Kumar (supra), Robin Singh (supra) where the persons concerned had concealed their prosecution. His case stands on a better footing than the case of Subhash Chand, who was prosecuted under Section 307 of IPC and Omveer Yadav, who was alleged to have committed offence under Section 392 of IPC.

For the reasons stated hereinabove, the impugned order dated 31.5.2011 passed by the Tribunal cannot be sustained and the same is accordingly set aside. The respondent is directed to issue an appointment letter to the petitioner within 08

weeks subject to his otherwise being fit and completing all necessary formalities and requirements. The petitioner would be entitled to seniority as well as pay and allowances from the date he joins the service.

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