

A UNION TERRITORY, CHANDIGARH
ADMINISTRATION AND ORS.

v.

B PRADEEP KUMAR AND ANOTHER
(Civil Appeal No. 67 of 2018)

JANUARY 08, 2018

[R. BANUMATHI AND UDAY UMESH LALIT, JJ.]

Service law:

C *Appointment – Disciplined force – Post of constable – Whether
the candidature of respondents who had disclosed their involvement
in the criminal cases and also their acquittal could be cancelled by
the Screening Committee on the ground that they are not suitable
for the post – Held: Acquittal in a criminal case does not
D automatically entitle candidate for appointment – It is open to the
employer to consider the antecedents and examine whether he is
suitable for appointment to the post – While deciding whether a
person involved in a criminal case acquitted or discharged should
E be appointed to a post in a police force, the nature of offence in
which he is involved, whether it was an honourable acquittal or
only an extension of benefit of doubt because of witnesses turning
hostile or flaws in the prosecution are all the aspects to be considered
by the Screening Committee for taking the decision whether the
candidate is suitable for the post – The decision of the Screening
Committee must be taken as final unless it is shown to be mala fide
F – Object of screening is to ensure that only persons with impeccable
character enters police force – In the case in hand, there is nothing
to suggest that the decision of the Screening Committee is mala fide
– Therefore, decision of the Screening Committee that the
respondents were not suitable for being appointed to the post of
Constable did not call for interference – Administrative law.*

G *Appointment – Disciplined force – Acquittal in criminal case
– Claim for appointment – Held: The acquittal in a criminal case is
not conclusive of the suitability of the candidates in the concerned
post – If a person is acquitted or discharged, it cannot always be
inferred that he was falsely involved or he had no criminal
H antecedents.*

Administrative law – Administrative decision – Appointment – Disciplined force – Whether the court can substitute its views for the decision taken by the Screening Committee – Held: Object of screening is to ensure that only persons with impeccable character enters police force – The court cannot substitute its views for the decision of the Screening Committee.

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Allowing the appeals, the Court

HELD:1. If a person is acquitted or discharged, it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Unless it is an honourable acquittal, the candidate cannot claim the benefit of the case. [Para 10][118-C]

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Deputy Inspector General of Police and Another v. S. Samuthiram (2013) 1 SCC 598 : [2012] 11 SCR 174 – relied on.

2. Entering into the police service required a candidate to be of good character, integrity and clean antecedents.[Para 11][118-G-H]

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Commissioner of Police, New Delhi and Another v. Mehar Singh (2013) 7 SCC 685 : [2013] 13 SCR 432; State of Madhya Pradesh and Others v. Parvez Khan (2015) 2 SCC 591; Avtar Singh v. Union of India and Others (2016) 8 SCC 471 : [2016] 7 SCR 445 – relied on.

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3.1 A candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be *mala fide*. The Screening Committee also must be alive to the importance of the trust repose in it and must examine the candidate with utmost character. [Para 13][122-C-D]

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3.2 The Screening Committee examined each and every case of the respondents and reasonings for their acquittal and taken the decision. While deciding whether a person involved in a criminal case has been acquitted or discharged should be

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A appointed to a post in a police force, nature of offence in which he is involved, whether it was an honourable acquittal or only an extension of benefit of doubt because of witnesses turned hostile and flaws in the prosecution are all the aspects to be considered by the Screening Committee for taking the decision whether the candidate is suitable for the post. The Screening Committee examined each and every case and reasonings for their acquittal and took decision that the respondents are not suitable for the post of Constable in Chandigarh Police. The procedure followed is as per guideline 2(A)(b) and object of such screening is to ensure that only persons with impeccable character enters police force. While so, the court cannot substitute its views for the decision of the Screening Committee. In the case in hand, there is nothing to suggest that the decision of the Screening Committee is *mala fide*. The decision of the Screening Committee that the respondents are not suitable for being appointed to the post of Constable does not call for interference. The Tribunal and the High Court, erred in setting aside the decision of the Screening Committee and the impugned judgment is liable to be set aside. [Paras 15, 17][124-D-F; 125-C]

E *Joginder Singh v. Union Territory of Chandigarh and Others* (2015) 2 SCC 377 : [2014] 11 SCR 155 – held inapplicable.

Case Law Reference

	[2014] 11 SCR 155	relied on	Para 7
	[2012] 11 SCR 174	relied on	Para 10
F	[2013] 13 SCR 432	relied on	Para 11
	(2015) 2 SCC 591	relied on	Para 11
	[2016] 7 SCR 445	relied on	Para 12
	[2014] 11 SCR 155	held inapplicable	Para 16

G CIVIL APPELLATE JURISDICTION: Civil Appeal No. 67 of 2018.

From the Judgment and Order dated 24.02.2016 by the High Court of Punjab and Haryana at Chandigarh in CWP No. 3532 of 2013 (O&M)

WITH

H C. A. Nos. 68, 69 and 70 of 2018.

UNION TERRITORY, CHANDIGARH ADMINISTRATION v. 115
PRADEEP KUMAR

Nikhil Goel, Ms. Naveen Goel, Ashutosh Ghade, Advs. for the Appellants. A

Mukesh K. Giri, Sudhir Naagar, Ankit Khera, Dushyant Parashar, Advs. for the Respondents.

The Judgment of the Court was delivered by B

R. BANUMATHI, J. 1. Leave granted

2. The question involved in these appeals is whether the candidature of the respondents who had disclosed their involvement in the criminal cases and also their acquittal could be cancelled by the Screening Committee on the ground that they are not suitable for the post of constable in Chandigarh Police and whether the court can substitute its views for the decision taken by the Screening Committee. Since the facts and issues are almost identical in all these appeals, they were heard together and shall stand disposed of by this common judgment. For convenience, we would deal with the facts in appeal arising out of SLP(C) No. 20750 of 2016 C D

3. On 14.03.2010, an advertisement was issued by UT Chandigarh Police through its Deputy Inspector General of Police inviting applications from the candidates to fill up 1200 temporary posts of Constable (Executive) in Chandigarh Police with essential qualification as prescribed in the advertisement with instructions for filling online application form. The recruitment was to be done as per guidelines thereon as well as standing order governing the recruitment of constables. Guideline No.2(A)(a) deals with the circumstances when the candidate does not disclose the factum of his involvement in the attestation form and the same is found subsequently from the verification report. The candidature of such candidates will be cancelled as per aforesaid guideline without making any reference to any Committee for further probe into the conduct of the candidate. In Guideline No.2(A)(b), it is prescribed that if a candidate has disclosed his involvement in some criminal case in the attestation form, then such case will be referred to Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the case is under investigation, trial or resulted in conviction or acquittal. E F G

4. Respondents were declared successful in the recruitment for the post of Constable (Executive) in Chandigarh Police after clearing the Physical Efficiency Test, Physical Measurement Test, written test H

A and interview. However, the respondents were denied the employment
on the ground that the respondents had been prosecuted in a criminal
trial for the offences under Section 323 IPC and Section 506 read with
Section 34 IPC and were acquitted by the trial court *vide* judgment
dated 29.01.2010 giving them benefit of doubt. The case was referred
B to the Committee headed by Senior Superintendent of Police and it was
found that the respondents were not suitable for appointment as
Constables in the Chandigarh Police.

5. Aggrieved, respondents filed OA before CAT. CAT *vide* order
dated 24.07.2012 allowed the OA and set aside the orders of the Screening
C Committee and directed the competent authority to consider the names
of the respondents for appointment to the post of Constable. The State
filed writ petition before the High Court which came to be dismissed for
all the respondents except Ombir holding that there was no concealment
of criminal antecedents. Being aggrieved, the State has preferred these
appeals.

D 6. Contention of the appellant is that acquittal of a person does
not entitle him to be appointed as a matter of right and the appointing
authority may still find such a person unfit to be appointed to the post. It
was urged by the appellant that even though the respondents were
acquitted in the criminal case, the appointment of the respondents to the
E post of Constable in Chandigarh police which is a disciplined force, was
found not desirable by the appointing authority. It was submitted that
the respondents were not honourably acquitted of the offences and the
acquittal was only based on the extension of benefit of doubt. Contention
of the appellant is that the post of Constable in disciplinary force demands
F an impeccable integrity and track record besides good character and
suitability. Further contention is that the court cannot overreach the
jurisdiction of the Screening Committee by substituting its own view in
the decision of the said Committee and hence, the impugned judgment
of the High Court and the Tribunal is not sustainable.

G 7. Per contra, contention of the respondents is that the criminal
case against the respondents was a case of '*no evidence*' and the
acquittal of the respondents is an honourable acquittal and the same
cannot be termed to be the case of '*benefit of doubt*'. Moreover,
respondents had fairly disclosed the factum of facing criminal trial by
giving complete details while applying for the job and there was no
H suppression on the part of the respondents. On behalf of the respondents,

much reliance was placed upon *Joginder Singh v. Union Territory of Chandigarh* and others (2015) 2 SCC 377. A

8. On the basis of the aforesaid rival contentions urged on behalf of both the parties, the following points arise for consideration:-

(i) Whether the contention of respondents that they were honourably acquitted and that they should not be deprived of being appointed to the post of Constable is acceptable? B

(ii) Whether the High Court was right in setting aside the decision of the Screening Committee and directing the authorities to consider the respondents to the post of Constable in the disciplined police force? C

9. On 23.06.2010, the Inspector General of police, UT Chandigarh issued Standing Order No.44 of 2010 laying down the guidelines to consider cases of candidates selected in Chandigarh Police on having found involvement in criminal cases in the past. This standing order deals with the cases of candidates before issuance of appointment and after issuance of appointment and joining. Relevant portion of the said Guidelines reads as under:- D

“GUIDELINES

(A) CASES BEFORE ISSUE OF APPOINTMENT E

(a) The candidature will be cancelled in case the candidate does not disclose the fact of his involvement and/or arrest in criminal case(s), complaint case(s), preventive proceedings etc. in the attestation form and the fact is subsequently found out from any verification report received from the District authorities or for any/other source. F

(b) If a candidate has disclosed his involvement and/or arrest in criminal cases(s), complaint case(s), preventive proceedings etc. the case will be referred to the Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the case is under investigation, trial or decided in conviction or acquittal. G

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In Guideline 2(A)(b), it is prescribed that if a candidate has disclosed his involvement in some criminal case in the attestation form H

A then such case will be referred to Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the case is under investigation, trial or decided in conviction or acquittal. In the present case, in all the cases of respondents, the aforesaid situation arises. On noticing the acquittal of the candidates, the cases of
B respondents were referred to Screening Committee. The Screening Committee carefully examined the cases of the respondents and the reasonings for their acquittal and the candidature of the respondents were rejected finding them not suitable.

C 10. The acquittal in a criminal case is not conclusive of the suitability of the candidates in the concerned post. If a person is acquitted or discharged, it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Unless it is an honourable acquittal, the candidate cannot claim the benefit of the case. What is honourable acquittal, was considered by this Court in *Deputy Inspector General of Police and Another v. S. Samuthiram* (2013) 1 SCC 598, in which
D this Court held as under:-

E “24. The meaning of the expression “honourable acquittal” came up for consideration before this Court in *RBI v. Bhopal Singh Panchal* (1994) 1 SCC 541. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions “honourable acquittal”, “acquitted of blame”, “fully exonerated” are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression “honourably acquitted”. When the accused is
F acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was
G honourably acquitted.”

H 11. Entering into the police service required a candidate to be of good character, integrity and clean antecedents. In *Commissioner of Police, New Delhi and Another v. Mehar Singh* (2013) 7 SCC 685, the respondent was acquitted based on the compromise. This Court held that even though acquittal was based on compromise, it is still open

to the Screening Committee to examine the suitability of the candidate and take a decision. Emphasizing upon the importance of character and integrity required for joining police force/discipline force, in *Mehar Singh* case, this Court held as under:-

“23. A careful perusal of the policy leads us to conclude that the Screening Committee would be entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they are acquitted or discharged if it feels that the acquittal or discharge is on technical grounds or not honourable. The Screening Committee will be within its rights to cancel the candidature of a candidate if it finds that the acquittal is based on some serious flaw in the conduct of the prosecution case or is the result of material witnesses turning hostile. It is only experienced officers of the Screening Committee who will be able to judge whether the acquitted or discharged candidate is likely to revert to similar activities in future with more strength and vigour, if appointed, to the post in a police force. The Screening Committee will have to consider the nature and extent of such person’s involvement in the crime and his propensity of becoming a cause for worsening the law and order situation rather than maintaining it. In our opinion, this policy framed by the Delhi Police does not merit any interference from this Court as its object appears to be to ensure that only persons with impeccable character enter the police force.

24. We find no substance in the contention that by cancelling the respondents’ candidature, the Screening Committee has overreached the judgments of the criminal court. We are aware that the question of co-relation between a criminal case and a departmental enquiry does not directly arise here, but, support can be drawn from the principles laid down by this Court in connection with it because the issue involved is somewhat identical, namely, whether to allow a person with doubtful integrity to work in the department. While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit. An acquittal based on benefit of doubt would not stand on a par with a clean acquittal on merit after a full-fledged trial, where there is no indication of the

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A witnesses being won over. In *R.P. Kapur v. Union of India* AIR 1964 SC 787 this Court has taken a view that departmental proceedings can proceed even though a person is acquitted when the acquittal is other than honourable.

B **25.** The expression “*honourable acquittal*” was considered by this Court in *S. Samuthiram* (2013) 1 SCC 598. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 IPC and under Section 4 of the Eve-Teasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious
C flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in *RBI v. Bhopal Singh Panchal* (1994) 1 SCC 541, where in somewhat similar fact situation, this Court upheld a bank’s action of refusing to reinstate an employee in service on the ground that in the
D criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in the departmental proceedings. This Court observed that the expressions “*honourable acquittal*”, “*acquitted of blame*” and “*fully exonerated*” are unknown to the Criminal
E Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression “*honourably acquitted*”. This Court expressed that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the
F charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

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G **33.** So far as respondent Mehar Singh is concerned, his case appears to have been compromised. It was urged that acquittal recorded pursuant to a compromise should not be treated as a disqualification because that will frustrate the purpose of the Legal Services Authorities Act, 1987. We see no merit in this submission. Compromises or settlements have to be encouraged to bring about peaceful and amiable atmosphere in the society by according a
H quietus to disputes. They have to be encouraged also to reduce

arrears of cases and save the litigants from the agony of pending litigation. But these considerations cannot be brought in here. In order to maintain integrity and high standard of police force, the Screening Committee may decline to take cognizance of a compromise, if it appears to it to be dubious. The Screening Committee cannot be faulted for that.

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35. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent times, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by the Delhi Police to ensure that persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of the trust reposed in it and must treat all candidates with an even hand.”

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The same principle was reiterated in *State of Madhya Pradesh and Others v. Parvez Khan (2015) 2 SCC 591*.

12. While considering the question of suppression of relevant information or false information in regard to criminal prosecution, arrest or pendency of criminal case(s) against the candidate, in *Avtar Singh v.*

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A *Union of India and Others (2016) 8 SCC 471*, three-Judges Bench of this Court summarized the conclusion in para (38). As per the said decision in para (38.5), “*In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.*”

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 13. It is thus well settled that acquittal in a criminal case does not automatically entitle him for appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. From the observations of this Court in *Mehar Singh* and *Parvez Khan* cases, it is clear that a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be *mala fide*. The Screening Committee also must be alive to the importance of the trust repose in it and must examine the candidate with utmost character.

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 14. In the case in hand, the details of the criminal cases in which the respondents were involved and the reasonings for their acquittal and the consideration by the Screening Committee are as under:-

Party Name/ SLP No.	Allegations	Reasons for acquittal	Consideration by the Screening Committee
F G H Pradeep Kumar SLP(C) No. 20750/16	<ul style="list-style-type: none"> • FIR under Sections 148, 149, 323 and 506 IPC. • Appeared outside the class room of the complainant therein along with other people. • Carrying <i>lathis</i> and axe and started beating the complainant and other persons of his village. 	<ul style="list-style-type: none"> • PW-1 (complainant) and PW-2 turned hostile and denied all the contents of complaint. • Witnesses admitted their signature on complaint but said that they were obtained on blank papers. • IO did not appear. • Therefore the trial was closed as no useful purpose could be served by examining the remaining witnesses. 	<ul style="list-style-type: none"> • Accused acquitted because star witnesses turned hostile and thus accused got benefit of doubt. • Appears that witnesses have been won over. • Accused 19 years age at the time of commission of offence.

<p>Narender Kumar SLP (C) No.20750/16</p>	<ul style="list-style-type: none"> FIR under Sections 148, 149, 323 and 506 IPC. Appeared outside the classroom of the complainant therein along with other people. Carrying <i>lathis</i> and axe and started beating the complainant and other persons of his village. 	<ul style="list-style-type: none"> PW1 (complainant) and PW2 turned hostile and denied all the contents of complaint. Witnesses admitted their signature on complaint but said that they were obtained on blank papers. IO did not appear. Therefore the trial was closed as no useful purpose could be served by examining the remaining witnesses. 	<ul style="list-style-type: none"> Accused acquitted because star witnesses turned hostile and thus accused got benefit of doubt. Appears that witnesses have been won over. Accused 21 years age at the time of commission of offence.
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Party Name/ SLP No.	Allegations	Reasons for acquittal	Consideration by the Screening Committee
<p>Ajay Kumar SLP (C) No.23855/16</p>	<ul style="list-style-type: none"> FIR under Sections 323, 307 and 34 IPC. Inflicted severe injuries to the sons of the complainant by inflicting blows with hockey sticks and kicks and fist blows to them. 	<ul style="list-style-type: none"> Delay of four days in lodging the complaint. Prosecution could not come out with clear motive. Two witnesses were withheld by the prosecution. Benefit of doubt given to the accused. 	<ul style="list-style-type: none"> Ajay Kumar has been involved in commission of heinous bodily injury. Acquitted on the basis of benefit of doubt.
<p>Paramjeet Singh SLP (C) No.23726/16</p>	<ul style="list-style-type: none"> FIR under Sections 323 and 506 IPC. Appeared at a satsang along with other accused. Started creating hindrance in the same and thereafter upon the complainant. Trying to stop him gave knife blows to the complainant. Caused injury to other persons with iron rod. Threatened to kill the persons with a pistol. 	<ul style="list-style-type: none"> Complainant/solitary eye witness admitted the evidence but denied the involvement of accused. Stated that assailants were unidentified persons. Stated his signatures were obtained by police on blank papers. 	<ul style="list-style-type: none"> Accused acquitted as the solitary eye witness turned hostile. Considered the same to be a case of benefit of doubt.

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A	Ombir SLP(C) No.8905/17	<ul style="list-style-type: none"> • FIR under Sections 323, 354, 506/34 IPC. • Allegation is that Ombir along with other co-accused persons in furtherance of their common intention outraged the modesty of one Sudesh (complainant). • Caused hurt to her, after which the complainant was admitted in the hospital. 	<ul style="list-style-type: none"> • The complainant and one Pradeep (PW2) has turned hostile and therefore prosecution evidence was closed and the accused acquitted. 	<ul style="list-style-type: none"> • The accused was acquitted as the complainant did not support the case of the prosecution. • The accused has committed offence of outraging modesty of woman and has been acquitted on the benefit of doubt.
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15. From the above details, we find that the Screening Committee examined each and every case of the respondents and reasonings for their acquittal and taken the decision. While deciding whether a person involved in a criminal case has been acquitted or discharged should be appointed to a post in a police force, nature of offence in which he is involved, whether it was an honourable acquittal or only an extension of benefit of doubt because of witnesses turned hostile and flaws in the prosecution are all the aspects to be considered by the Screening Committee for taking the decision whether the candidate is suitable for the post. As pointed out earlier, the Screening Committee examined each and every case and reasonings for their acquittal and took decision that the respondents are not suitable for the post of Constable in Chandigarh Police. The procedure followed is as per guideline 2(A)(b) and object of such screening is to ensure that only persons with impeccable character enters police force. While so, the court cannot substitute its views for the decision of the Screening Committee.

16. On behalf of the respondents, much reliance was placed upon *Joginder Singh v. Union Territory of Chandigarh and Others* (2015) 2 SCC 377. In the said case, the appellant thereon was charged under Sections 148, 149, 323, 325 and 307 IPC but acquitted by the trial court holding that the prosecution has failed to prove the charges levelled against him since complainant as well as injured eye witnesses failed to identify the assailants and the complainant had stated that his signature was obtained on a blank sheet by the Investigating Officer. The case

involved was a family dispute. In such facts and circumstances, this Court held that acquittal of appellant Joginder Singh was an honourable acquittal and hence, he should not be denied appointment to the post in question. The decision in Joginder Singh case does not advance the case of the respondents herein. A

17. In a catena of judgments, the importance of integrity and high standard of conduct in police force has been emphasized. As held in *Mehar Singh* case, the decision of the Screening Committee must be taken as final unless it is *mala fide*. In the case in hand, there is nothing to suggest that the decision of the Screening Committee is *mala fide*. The decision of the Screening Committee that the respondents are not suitable for being appointed to the post of Constable does not call for interference. The Tribunal and the High Court, in our view, erred in setting aside the decision of the Screening Committee and the impugned judgment is liable to be set aside. B C

18. In the result, the impugned judgment is set aside and the appeals are allowed. The cancellation of candidature of the respondents is upheld. No costs. D