HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE THIRTY FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 1104 OF 2025

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 13/02/2025 in W.P.No.40400 of 2018 & 880 of 2020 on the file of the High Court.

Between:

The State Level Police Recruitment Board, Rep., by its Chairman, Hyderabad 500001

...APPELLANT/RESPONDENT

AND

1. M.Kamalakar, S/o M.Sammaiah, Aged about 35 years, Un- Employed, R/o Nandigama Village, Nallabelli Mandal, Warangal Rural.

...PETITIONER/RESPONDENT

2. The State of Telangana, Rep. by its Principal Secretary to Government, Home Department, Secretariat, Hyderabad-22
3. The Director General of Police, Telangana State, Hyderabad
4. The Commissioner of Police, Warangal.
5. The Deputy Inspector of General of Police, Warangal Range, Warangal.

***(R2 to R5 not necessary parties in this petition)**

...RESPONDENTS

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the common orders dated 13-02-2025 passed in WP No. 40400 of 2018 and 880 of 2020 pending disposal of the Writ Appeal.

Counsel for the Appellant: SRI M.V.RAMA RAO, SC FOR TSLPRB

Counsel for the Respondent No.1: SRI M.SURENDER RAO, Sr. COUNSEL, REP. FOR SRI SRINIVASA RAO MADIRAJU

Counsel for the Respondent No.2 to 5: GP FOR SERVICES (HOME)

The Court delivered the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL No.1104 of 2025

JUDGMENT:

This Writ Appeal is filed by the State Level Police Recruitment Board, assailing the common order dated 13.02.2025 passed by the learned Single Judge in W.P.No.40400 of 2018 and W.P.No.880 of 2020. By the said order, the learned Single Judge allowed the writ petitions filed by the respondent herein (hereinafter referred to as 'the Writ Petitioner') and directed the appellant and respondent Nos.2 to 5 herein (hereinafter 'respondents' in the writ petition) to appoint the writ petitioner as a Stipendiary Cadet Trainee (SCT) Sub-Inspector (Civil) and to send him for training in the next training camp.

2. Heard learned Standing Counsel for the Appellant-Board; the learned Government Pleader for Services (Home) for the respondents in the writ petition; and Sri M.Surender Rao, learned Senior counsel for the writ petitioner at considerable length and perused the material on record, including the pleadings and the precedents cited.

3. The factual matrix, in the present case, is that the writ petitioner was provisionally selected for the post of SCT Reserve Sub-Inspector (APSP) pursuant to a notification

Rc.No.931/R&T/Rect.1/2011, dated 03.11.2011. His selection was cancelled *vide* Rc.No.63/Rectt./Genl.I/2014 dated 26.11.2014 on the ground of his alleged involvement in three criminal cases. It is an admitted fact that the writ petitioner was acquitted in all these cases, the last of which was in 2007, i.e., well before the issuance of the recruitment notification in 2011. The core dispute revolves around the writ petitioner's initial non-disclosure and subsequent disclosure of these antecedents in the attestation forms and the appellant Board's consequent rejection of his candidature, deeming him unsuitable for police service.

4. The learned Single Judge, after a thorough analysis of the facts and the law, particularly the guidelines laid down by the Supreme Court in ***Avtar Singh v. Union of India***[1], concluded that:

a) The earlier acquittals of the writ petitioner, one of which was a clean acquittal on merits and the other on benefit of doubt due to the prosecution's failure to prove the charges wiped the slate clean.

b) The initial non-disclosure was a '*bona fide* mistake' and an inadvertent omission, made under the *bona fide* belief that the acquittal rendered the disclosure already closed cases unnecessary. The same was promptly rectified by the writ petitioner within a month by submitting a fresh attestation form containing full and truthful disclosure.

[1] (2016) 8 SCC 471

c) The appellants failed to apply the nuanced principles of ***Avtar Singh's*** case (supra), which mandate a case-by-case analysis considering the nature of the offence, the age of the candidate at the time of the incident, and the nature of the acquittal.

d) The writ petitioner was similarly situated to other candidates who were appointed. Therefore, the petitioner was entitled to the same treatment in the matter of regularization.

5. The appellant Board, in this appeal, has raised several grounds, contending that:

(i) The learned Single Judge erred in not giving due weightage to the opinion of the specially constituted Screening Committee, which found the petitioner unsuitable.

(ii) The initial suppression of information, even if later corrected, demonstrated a lack of integrity.

(iii) The offences involved, including one under Section 379 IPC (theft), involve moral turpitude.

(iv) Directing appointment after such a long lapse of time (since the 2011 notification) creates administrative issues concerning seniority and vacancies.

6. The learned Senior Counsel appearing for the writ petitioner supported the order of the learned Single Judge and contended that the order of the learned Single Judge was a well reasoned order which did not warrant any interference by this Court.

7. We have considered the respective submissions made; and we find no merit in this appeal. We find that the learned Single Judge's order is not only legally sustainable but is also just and equitable.

8. We affirm the order passed by the learned Single Judge for the following compelling reasons:

I. Misapplication of *Avtar Singh's (supra)* Guidelines:

9. It is to be noted that the action of the appellant Board reflects a mechanical and perfunctory exercise of discretion reducing the examination required of it to a mere procedural formality. The action of the appellant-Board is in clear contravention of the spirit and ratio laid down by the Hon'ble Supreme Court in the case of ***Avtar Singh*** *(supra).* The judgment in ***Avtar Singh*** (supra) does not enunciate an absolute rule of disqualification upon non-disclosure of antecedents; rather, it confers upon the employer a discretionary power to be exercised judiciously, keeping in view the totality of the facts and circumstances of each case. The relevant para for consideration is as under:

> ***38.4.3.*** *If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.*

10. In the present case, the Screening Committee as well as the appellant Board have failed to apply the above principle in its true perspective. Their decision reflects an undue and rigid focus on the initial omission in disclosure, while completely disregarding relevant mitigating circumstances namely, i) the writ petitioner's prompt and voluntary rectification by submitting a corrected attestation form; ii) his *bona fide* belief that the prior acquittal dispensed with the requirement of disclosure; iii) his young age at the time of the incidents (17 and 21 years); and iv) the fact that such acquittal had attained finality long before his entry into public service. Therefore, such selective consideration of facts and omission to weigh the attendant circumstances constitutes a clear instance of non-application of mind and failure to exercise the statutory discretion in a fair, reasonable, and judicious manner, thereby vitiating the impugned decision.

II. <u>Nature of Acquittal and Offences:</u>

11. It is also pertinent to note that the attempt of the appellant Board to portray the writ petitioner as possessing a "criminal mentality" on the basis of cases that culminated in acquittal is misconceived and legally untenable. An acquittal, in the eyes of law, amounts to a formal declaration of innocence, and once such acquittal has attained finality, it cannot be used as a stigma or as a ground to infer adverse antecedents. The

contention advanced by the appellants that the acquittal was not "honourable" or "clean" is a distinction without legal consequence in the present context, particularly when the prosecution had failed to establish guilt beyond reasonable doubt, which is the requirement in law.

III. Justification for issuance of a positive *Mandamus*:

12. This Court, in considering the submission made by the learned Standing Counsel for the appellant-Board that even if the rejection were to be found unsustainable, the proper course would be to direct the authorities to "consider" the writ petitioner's case afresh, is of the view that as the background and the record of this litigation reveals a persistent pattern of non-compliance and obstinacy on the part of the appellant authorities.

13. It is evident that the writ petitioner's case had already been remitted once for reconsideration by this Court *vide* interim order dated 03.11.2008 in W.P.No.40400 of 2018. Pursuant thereto, since the appellants undertook a superficial and mechanical exercise, culminating in another rejection *vide* Memo dated 01.03.2019. In our view, directing another round of "consideration" would serve no meaningful purpose. In circumstances where the authority has demonstrated a closed mind and a mechanical approach, and where the writ petitioner's entitlement is clearly established on facts and in

law, issuance of a positive *mandamus* directing appointment becomes necessary to secure the ends of justice.

IV. Lapse of Time and Administrative Convenience:

14. In respect of the contention advanced by the appellant Board that the recruitment notification of 2011 has become stale or incapable of implementation on account of lapse of time, it is to be noted that such a plea appears to be one of necessity and not of substance. Further, the delay in the present case is not attributable to the writ petitioner, who has been diligently pursuing his legal remedies against an unwarranted cancellation of his selection. The appellants cannot be permitted to take advantage of the delay occasioned by their own actions and the pendency of judicial proceedings.

15. Since the issue relating to the availability of a vacancy, or the necessity of creating a supernumerary post, is purely administrative in nature, it is incumbent upon the appellant authorities to take appropriate steps to ensure compliance with the directions issued by this Court.

16. While we uphold the judgment of the learned Single Judge in its entirety, we deem it appropriate to modify the operative portion of the order to bring clarity and ensure seamless implementation. The learned Single Judge in the impugned order dated 13.02.2025 directed the appellants to "appoint petitioner as Stipendiary Cadet Trainee Sub-Inspector (Civil)"

and further directed the respondents to "send petitioner for training in the next training camp." The sequence of "appointment" followed by "training" is the standard procedure for such posts. The training is an integral part of the appointment process for a Stipendiary Cadet Trainee. Therefore, to avoid any ambiguity or further needless controversy, we modify the direction as under:

> *"The appellants are directed to issue an appointment order to the Writ Petitioner, M. Kamalakar, for the post of Stipendiary Cadet Trainee Sub-Inspector (Civil), and consequently, send him to the next available training batch for the said post subject to fulfilment of other necessary conditions by the writ petitioner."*

17. With the above modification, the Writ Appeal is disposed of. The impugned common order of the learned Single Judge, as modified herein above, stands confirmed. There shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, shall stand closed.

SD/- MOHD. ISMAIL
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary to Government, Home Department, Secretariat, Hyderabad, State of Telangana-22.
2. The Chairman, State Level Police Recruitment Board, Hyderabad 500001.
3. The Director General of Police, Telangana State, Hyderabad
4. The Commissioner of Police, Warangal.
5. The Deputy Inspector of General of Police, Warangal Range, Warangal.
6. One CC to SRI M.V.RAMA RAO, SC FOR TSLPRB [OPUC]
7. One CC to SRI SRINIVASA RAO MADIRAJU, Advocate [OPUC]
8. Two CCs to GP FOR SERVICES (HOME), High Court for the State of Telangana at Hyderabad [OUT]
9. Two CD Copies

BSR

HIGH COURT

DATED: 31/10/2025

JUDGMENT

WA.No.1104 of 2025



DISPOSING OF THE WRIT APPEAL,

WITHOUT COSTS

(12) PA 4/11/25