‘0ITEM NO.17 COURT NO.11 SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2010
CC 7667/2010
(From the judgement and order dated 06/01/2010 in WP No. 8138/2008
of The HIGH COURT OF DELHI AT N. DELHI)

SHAILENDRA SINGH Petitioner(s)
VERSUS
COMMR.OF POLICE & ANR. Respondent(s)

IA NO.1(c/delay in filing SLP)

Date: 13/05/2010 This Petition was called on for hearing today.

CORAM :
HON’BLE MR. JUSTICE G.S. SINGHVI
HON’BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Pradeep Kumar Arya, Adv.
Mr. Narinder Choudhary, Adv. For
Mr. Chander Shekhar Ashri, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

The petitioner applied for appointment as Constable. He successfully passed the physical endurance test and written examination but his selection was kept in abeyance because a complaint was received in the department that he was involved in a criminal case under Sections 147/148/149/302/307/452 of the Indian Penal Code. Additional Sessions Judge - I, Muzaffar Nagar, who tried the petitioner along with other accused rendered the judgment of acquittal because all the prosecution witnesses turned hostile. After acquittal, the petitioner made representation for being appointed as Constable. Thereupon, he was served with show cause notice dated 16.4.2007 (in the final order the date has been shown as 14.6.2007) proposing cancellation of his selection. He submitted reply dated 2.7.2007 and cited his acquittal as the ground for not cancelling the selection. After considering the same, Deputy Commissioner of Police, 4th Bn. DAP, Delhi passed order (date not mentioned in the paper book of the Special Leave Petition) whereby he cancelled the selection of the petitioner. The relevant portions of that order are extracted below:

> "Your character and antecedents was got verified from the authority concerned and found normal. As such, you were called to join the Deptt. on 27.03.06 vide this Office Memo No.3301-3550/R.Cell (R-II)/4th Bn. DAP dated 16.03.06. Meanwhile, on 27.03.06 an application was received in this office from one Prem Pal S/o Sh. Raj Singh (one of your relatives) stating therein that you have been falsely implicated in a crl. case FIR No.37/2006 dated 15.03.06 u/s 147/148/149/302/307/452 IPC, PS Garhi Pukta (UP). Upon this, the facts were again got verified from SP/Muzaffar Nagar (U.P.) who had

intimated that a crl. case FIR No.37/2006 u/s 147/148/149/302/307/452 IPC was registered against you at PS Garhi Pukhta (UP) in which you were arrested on 16.03.06 and the case is still pending with CBCID (UP). Upon this your case was kept in abeyance till the decision of the above said criminal case. On 21.03.07, you have submitted an application to this office stating therein that you have been acquitted by the Hon'ble Court No.1, Muzaffar Nagar (UP) in the abovesaid crl. case vide order dated 17.03.07 and requested to allow to join the Deptt. as Const. (Exe.).

Accordingly, your case was examined and you were issued a Show Cause Notice vide this office memo No.XII-C(110)/2006/R.Cell (R-IV/4th Bn. DAP, dated 14.06.07 as to why your candidature for the post of Constable (Exe.) in Delhi Police should not be cancelled for the reasons mentioned therein. In response to Show Cause Notice, you have submitted your reply received in this office on 03.07.2007, which has been considered in detail along with relevant record available on file. The same has not been found convincing because of the reasons that you were found involved in criminal case and acquitted by the H'ble court as witness(s) of the case turned hostile and at the time of incident you were having 'Katta' that shows a very strong possibility of your active involvement in murder case which can not be said to be an honorable acquittal. As such, you have been found not suitable for the post of Const. (Exe.) Male in Delhi Police and your candidature for the post of Const.(Exe.) Male in Delhi Police is hereby cancelled with immediate effect."

The petitioner challenged the aforementioned order in O.A. No.1326 of 2008, which was dismissed by the Principal Bench of the Central Administrative Tribunal, New Delhi (for short, 'the Tribunal'). The writ petition filed by him was also dismissed by the Division Bench of the High Court.

We have heard learned counsel for the petitioner and perused the record. In our opinion, the view taken by the Tribunal and the High Court on the legality of the order passed by the competent authority does not suffer from any infirmity warranting interference under Article 136 of the Constitution. The competent authority was entitled to take the view that a person carrying a country made pistol at the time of incident which led to his prosecution on the charge of murder and other offences, will not be suitable for police service. The satisfaction reached by the concerned authority cannot be said to be based on extraneous reasons which could justify interference by the Tribunal or the Court.

The special leave petition is accordingly dismissed.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master