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**(2000) 01 AHC CK 0025**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 3864 of 2000**

Awadhesh Kumar Sharma

APPELLANT

Vs

Union of India and others

RESPONDENT

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**Date of Decision :** 24-01-2000

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 147, 323, 352, 504

**Citation :** (2000) 2 AWC 1073 : (2000) 85 FLR 133 : (2000) 2 UPLBEC 1181

**Hon'ble Judges :** Shitla Prasad Srivastava, J;M. Katju, J

**Bench :** Division Bench

**Advocate :** N.K. Dwivedi, for the Appellant;

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## Judgement

M. Katju, J.—Heard learned counsel for the parties.

2. The petitioner is challenging the impugned orders of the Central Administrative Tribunal dated 26.2.1997 and 24.12.1999 Annexures 8 and 9 to the writ petition.

3. The petitioner applied for appointment as Mazdoor in the Central Ordinance Department, Kanpur and thereafter he was interviewed and selected on the post of Mazdoor by letter dated 7.1.1989 Annexure-2 to the petition. However. in the relevant form the petitioner did not mention that he was facing a criminal case u/s 147/323/352/504, I.P.C. which was later converted into Section 307, I.P.C. Hence his selection was cancelled vide Annexure-3 to the petition. In that criminal case, he was acquitted vide judgment dated 7.7.1989 true copy of which is Annexure-4 to the writ petition. Hence he made representation dated 4.8.1999 vide Annexure-5 to the writ petition stating that he has been acquitted in the criminal case and hence he should be permitted to join duty. He made another representation dated 5.9.1989 vide Annexure-6 but he was informed by letter dated 12.10.1990 that he can be considered as a fresh candidate as and when the vacancies are released. The petitioner has alleged that there is no other case pending against him. He filed a petition before the Central Administrative

Tribunal which was dismissed and the review application was also dismissed. Hence this writ petition. In our opinion when the petitioner was acquitted in the criminal case, it has to be deemed in law that in fact he was never involved in any criminal case. It is settled law that every statute ordinarily operates prospectively (unless expressly made retrospective), whereas every Judgment of a court of law operates retrospectively (unless expressly made prospective). The only material against the petitioner was the criminal case in which he was acquitted. Since he has been selected, he must now be allowed to Join duty.

4. A similar view was taken by a single Judge of this Court in Qamrul Huda v. Chief Security Commissioner, 1997 (2) UPLBEC 1201. and we fully agree with the aforesaid decision. In the circumstances this petition is allowed. The impugned order dated 26.2.1997 and 24.12.1999 are quashed. A mandamus is issued to the respondents to appoint the petitioner as Mazdoor within six weeks of production of a certified copy of this order in accordance with law in pursuance of selection letter dated 7.1.1989.