

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA No.512 of 2015(O&M)
Date of decision: July 23, 2015

Amit Kumar

----Appellant

Versus

State of Haryana and others

----Respondents

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present:- Mr.Ashwani Kumar Bura, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 15.01.2015, whereby, the petition (CWP No.13845 of 2012) filed by the appellant challenging the order dated 11.06.2010 (Annexure P-2), whereby, he was discharged from the service of Constable in Haryana Police under Punjab Police Rules has been dismissed. His challenge to the order dated 05.06.2012 (Annexure P-5) rejecting his representation against his discharge was also dismissed.

The appellant was selected as a Constable in Haryana Police and joined his duties on 06.07.2008. After enlisting as Constable he was deputed for Recruit Basic Training at Recruit Training Centre at Bhondsi District Gurgaon. It is his case that while he was under training, a false case FIR No. 186 dated 8.6.2009

under sections 363, 366-A and 376 IPC was registered against him at Police Station Mohindergarh. He was arrested in the said case from the Recruit Training Centre Bhondsi on 9.6.2009. Consequent upon his arrest he was placed under suspension. Vide order dated 11.6.2010. the appellant was discharged from service with immediate effect under Rule 12.21 of Punjab Police Rules 1934 as applicable to Haryana.

Subsequently, the appellant was acquitted in the criminal case by Learned Sessions Judge, Narnaul, vide judgment dated 21.12.2011. After his acquittal and release from custody, he made a representation/appeal dated 6.1.2012 to respondent No.2 requesting that the order of discharge may be reconsidered and he be reinstated with all benefits. The said representation/appeal was rejected vide order dated 5.6.2012 stating that under the Punjab Police Rules Volume II, no appeal lies against the order of discharge under Rule 12.21.

Aggrieved against these orders, the petitioner filed the civil writ petition, which was dismissed.

Learned Single Judge held that the appellant did not deserve to be reinstated on the basis of judgment of acquittal dated 21.12.2011. It was observed that a perusal of the judgment reveals that the appellant was acquitted being given the benefit of doubt as the prosecutrix resiled from her initial statement and did not support the prosecution case. It was observed that In fact during the initial part of the trial, the prosecutrix could not be served as her

whereabouts were not known. The court therefore ordered closure of the prosecution evidence. It was only after the statement of the accused under section 313 Cr.P.C. was recorded that the prosecutrix was traced out. Thereafter prosecution moved application under section 311 Cr.P.C. for recording her statement which was allowed. Ld. Single Judge noted that the prosecutrix had already married and had an eleven month son and probably that is why she did not support the prosecution version. Ld. Single Judge relied on a judgment of Supreme Court titled as **State of M.P. v. Parvez Khan, (2015) 2 SCC 591**, wherein, it was held that on mere acquittal on the benefit of a doubt, it can not be presumed that a person was not involved in the case. Noting that the charges against the appellant were serious, learned Single Judge observed that the appellant did not deserve to be reinstated in service.

Learned counsel for the appellant has argued that the criminal case against the appellant was false and as he has been acquitted in the same, the substratum of the order of discharge no longer exists and he is entitled to be reinstated.

We are unable to agree with the contention of the learned counsel for the appellant.

The appellant was a member of the police force and as such it was his prime duty to protect society. Instead of being a protector he became a violator. There can be no place for such a person in the disciplined force. In ***Parvez Khan's case (supra)*** it was observed:

13. From the above observations of this Court, it is clear that a candidate to be recruited to the police service must be worthy of confidence and must be a person of utmost rectitude and must have 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 completely exonerated. Persons who are likely to erode the credibility of the police ought not to enter the police force. No doubt the Screening Committee has not been constituted in the case considered by this Court, as rightly pointed out by the learned counsel for the respondent, in the present case, the Superintendent of Police has gone into the matter. The Superintendent of Police is the appointing authority. There is no allegation of mala fides against the person taking the said decision nor the decision is shown to be perverse or irrational. There is no material to show that the appellant was falsely implicated. Basis of impugned judgment is acquittal for want of evidence or discharge based on compounding.

Thus, there is no merit in the appeal and the same is

dismissed.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

July 23, 2015

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