

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11438 of 2014

Date of Decision:- 28.4.2016.

Hari Om

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Manoj K. Tanwar, Advocate for the petitioner.

Mr. Sunil Kumar Sharma, Senior Panel Counsel
for Union of India-respondents.

P.B. BAJANTHRI, J.

1.) In the instant writ petition, the petitioner has questioned the order dated 30.5.2013 (Annexure P-5) by which his appeal against the termination order dated 19.9.2012 (Annexure P-2) has been rejected.

2.) The petitioner is one of the candidate for the selection and appointment to the post of Sepoy. He has completed the process of recruitment and he was selected and appointed in the month of August, 2011. He was sent for training for 22 weeks. After completion of training, petitioner was posted in Headquarter CRPF, Pinjore on 23.7.2012.

3.) The respondents have verified antecedents of the petitioner and found that the petitioner was involved in a criminal case and he has been acquitted on 11.10.2007. These factual aspects have been suppressed by the petitioner while filling up Form No.25. He was

supposed to furnish information as sought in clause 12 (a) and (b). For not giving the required information in clause 12 (a), the petitioner's services were proposed to be terminated. In this regard, on 19.9.2012, notice of termination was issued. Feeling aggrieved by the notice of termination, the petitioner is stated to have approached the Allahabad High Court. For want of jurisdiction, the Allahabad High Court refused to entertain the petition. Thereafter, the petitioner approached this Court. This Court while disposing of **CWP No.20 of 2013** held that the petitioner is required to approach the Competent Authority against the termination order. Consequently, the petitioner approached the Appellate Authority and the Appellate Authority on 30.5.2013 rejected the petitioner's claim while upholding the order of termination. The petitioner feeling aggrieved by the order of the Appellate Authority dated 30.5.2013 presented this petition.

4.) Learned counsel for the petitioner submitted that as on the date of filling up of the Form No.25, he was not facing criminal proceedings. On 11.10.2007, in a criminal proceedings, he has been acquitted. Thereby he has answered clause 12 (a) as "No". Therefore, terminating the petitioner's service is arbitrary and illegal. It was further pointed out that details sought in clause 12 (a) are to be furnished by a candidate who has been convicted. Since the petitioner has not been convicted consequently, question of furnishing details sought in clause 12 (a) do not arise. Therefore, the Authorities have wrongly interpreted clause 12 (a) and terminated the petitioner's services and the impugned action is highly arbitrary and illegal.

5.) Per contra, counsel for the respondents vehemently contended that the candidate is required to furnish information as sought in clause 12

(a) irrespective whether the candidate has been convicted or acquitted. Since the petitioner has not furnished details sought in clause 12 (a) to that extent he has suppressed that he was involved in criminal proceedings and acquitted, therefore, rightly the respondents have terminated the services and there is no infirmity in the order of the Appellate Authority confirming the order of termination.

6.) Heard learned counsel for the parties.

7.) The crux of the matter in this case is whether the petitioner has suppressed the fact that he was involved in criminal case and acquitted in the year 2007 or not? Clause 12 (a) reads as follows:-

*“Have you ever been arrested, prosecuted, kept under detention or bound down/fined, **convicted by a court of law** for any offence or debarred/disqualified by any Public Service Commission from appearing at its examination selections, or debarred from taking any examination/rusticated by any University or any other education authority/institution?”*

8.) Reading of the above reproduced clause reveals that a candidate who has been convicted, has to furnish information sought in the above clause as is evident that **“convicted by a court of law for any offence”**. In view of the aforesaid wordings, question of furnishing information relating to arrest, prosecution, kept in detention or bound down/fined could arise only in respect of a candidate who had been convicted. In the present case, the petitioner even though involved in a criminal case, he has been acquitted in the year 2007 itself, therefore, question of furnishing information as sought in clause 12 (a) do not arise. Moreover, instructions are not crystal clear that even a candidate is

acquitted he was to furnish information and proper space should have been provided against each column so as to write the required information. Therefore, termination of the petitioner for not furnishing the information with reference to clause 12 (a) of the form with reference to factual aspects of the case in hand is incorrect. In view of these facts and circumstances, the Appellate Authority's order dated 30.5.2013 (Annexure P-5) is set aside. The respondents are directed to take back the petitioner for duty forthwith. The consequential benefits should be granted within a period of three months.

- 9.) Civil Writ Petition is allowed.
- 10.) No order as to cost.

(P.B. BAJANTHRI)
JUDGE

April 28, 2016.

sandeep sethi