

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

(275)

CWP No. 10358 of 2016  
Date of Decision:- 16.11.2016.

Dinesh

.....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

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

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Present: Mr. Madan Pal, Advocate  
for the petitioner.

Mr. H.S. Baidwan, Advocate  
for respondents No. 1 to 4.

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**P.B. BAJANTHRI, J. (Oral)**

In the instant writ petition, the petitioner has questioned the impugned communication dated 20.11.2015 vide Annexure P-10.

2. The petitioner is a candidate for the recruitment to the post of Sub-Inspector in CISF. In the process of recruitment to the post of Sub-Inspector-CISF held in the year 2014 and 2015, the petitioner is stated to be selected and his name was recommended for sending him for training. To that extent the respondents communicated vide Annexure P-7 directing the petitioner to report for training on 03.10.2015. In the meanwhile, the respondents telephonically gave a message to the petitioner not to report for training. Thereafter, a formal

order has been passed stating that petitioner shall not report for training on 20.11.2015 and further directing him to produce various documents like FIR, attestation form, final report, court order etc., vide Annexure P-10. The petitioner is stated to have submitted a legal notice on 26.11.2015. Since, no action has been taken by the respondents, consequently, he was compelled to approach this Court seeking a direction to the respondents to consider the grievance of the petitioner.

3. On 15.12.2015, this Court disposed of the petition directing the respondents to consider legal notice. Thereafter, the respondents on 06.05.2016 considered the grievance of the petitioner and rejected his claim to appoint him to the post of Sub-Inspector. To select and appoint to the post of Sub-Inspector in CISF with reference to the guidelines issued by the Government of India dated 01.02.2012, the guidelines are relating to under what circumstances, candidates who are involved in criminal cases could be considered. In this background, admittedly, the petitioner was involved in a criminal case for the offences under Sections 356 and 379 of the IPC. On 25.07.2013 among others petitioner was acquitted on the benefit of doubt. The respondents declined to send the petitioner for training and his selection has been turned down, on the score that, even though the petitioner has been acquitted for the offences under Sections 356 and 379 on benefit of doubt, even then the policy guidelines for considering cases of candidates for appointment in CAPFs-pendency of criminal cases against candidates is required to be considered. In the said guidelines, the respondents are relying on Para-V read with Annexure-A Item No. 9 which relates to Indian Panel Code, Chapter 17, offences against property Sections 379 to 462. In the present

case, the petitioner was subjected to criminal proceedings under Section 379 IPC. Therefore, claim of the petitioner for selection and appointment to the post of Sub-Inspector in CISF has been declined.

4. In view of the later decision of the Supreme Court passed in **“Avtar Singh versus Union of India and others SLP (C) 20525/2011 decided on 21.07.2016 - 2016(3) S.C.J. 672”**, wherein certain principles have been laid down under what circumstances a candidate’s selection and appointment can be turned down on the ground of suppression of facts or involvement in a criminal proceedings. Having regard to the principles laid down in Avtar Singh’s case (supra), the matter requires re-consideration by the competent authority. Therefore, the impugned communication dated 20.11.2015 vide Annexure P-10 is set aside. The respondents are directed to re-examine the petitioner’s claim for selection and appointment to the post of Sub-Inspector/CISF with reference to the decision of the Apex Court passed in the Avtar Singh’s case (supra). Such a decision shall be taken by the respondents within a period of three months from today and the same shall be communicated to the petitioner. If the decision is in favour of the petitioner he is entitled to all service benefits including monetary benefits.

5. Accordingly, petitions stands allowed.

**(P.B. BAJANTHRI)**  
**JUDGE**

**November 16, 2016**  
sahil soni

**Whether speaking/reasoned : Yes/No**

**Whether reportable : Yes/No**