

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

**CWP No.27583 of 2013 (O&M)**

**Judgment reserved on 02.08.2016**

**Date of Decision 24.08.2016**

Krishan Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Jitender Dhanda, Advocate,  
for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

**TEJINDER SINGH DHINDSA, J.(ORAL)**

Petitioner assails the order dated 27.09.2013 (Annexure P-4) in terms of which he has been declined appointment on the post of Agriculture Development Officer (Administration Cadre) under the Department of Agriculture, State of Haryana.

Pleaded case of the petitioner is that he completed the degree of Bachelor of Science (Honours in Agriculture) from Chaudhary Charan Singh Haryana Agricultural University, Hisar in the year, 2000. The Haryana State Staff Selection Commission issued advertisement inviting applications from eligible candidates for recruitment the post of Agriculture Development Officer (Administration Cadre). Petitioner being eligible applied for the post in question and subjected himself to a process of selection. He is stated to have been interviewed on 16.02.2011. The result

of the selection process was declared by the Haryana State Staff Selection Commission and name of the petitioner figured in the select list.

Counsel would submit that in spite of being eligible and having been recommended by the recruitment agency for appointment to the post, claim of the petitioner has been rejected vide impugned order dated 27.09.2013 (Annexure P-4).

Counsel for the petitioner would submit that the petitioner has been denied appointment only on the ground that he has been convicted in FIR No.284 dated 26.08.1992, under Sections 420, 467, 468, 471 IPC, registered at Police Station Civil Lines, Hisar and was sentenced to undergo imprisonment for two years and to pay a fine of Rs.500/-.

Precise submission raised is that the petitioner had been granted benefit of probation under the provisions of Probation of Offenders Act, 1958 and as such Section 12 of the Act would come to his rescue as the same reads in the following terms:

***12. Removal of disqualification attaching to conviction-***

*“Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:*

*Provided that nothing in this section shall apply to a person who, after his release under section 4, is subsequently sentenced for the original offence.”*

The contention raised is that if any convict has been released on probation by a Court of law then such conviction cannot be taken as a bar/disqualification against him while seeking appointment in Government Service.

Having heard counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that the instant petition lacks merit and deserves dismissal.

It has gone uncontroverted that petitioner was involved in FIR No.284 dated 26.08.1991, under Sections 420, 467, 468, 471 IPC, registered at Police Station Civil Lines, Hisar and wherein he was convicted and sentenced to undergo imprisonment for two years and to pay a fine of Rs.500/- vide judgment dated 10.08.2000 passed by the trial Court. Appeal preferred by the petitioner was dismissed by the Additional Sessions Judge, Hisar vide order dated 18.07.2002. Petitioner preferred Criminal Revision No.1431 of 2002 before this Court and which was disposed of on 30.04.2009 whereby his conviction was maintained but he was extended the benefit of probation under the Probation of Offenders Act, 1958. Copy of the judgment dated 30.04.2009 passed by this Court in Criminal Revision No.1431 of 2002 has been placed on record and appended as Annexure P-5.

The allegation against the petitioner and on which he was found guilty was that while applying for admission to a VLD programme, he had furnished a matriculation certificate showing his marks as 454 whereas upon due verification it had been found that his marks were actually 341. The observations made by this Court while maintaining the conviction of the petitioner under Section 471 IPC would be relevant in the context of the present case and are in the following terms:

*“In the present case, petitioner has applied for admission to VLD programme vide form Exhibit PB. The matriculation certificate attached with the form shows the marks of the petitioner as 454. The said certificate is Exhibit*

*PC. However, it was found that in fact, the petitioner had obtained only 341 marks in his matriculation examination. A perusal of the form Exhibit PD reveals that the same is duly signed by the petitioner and also bears the photographs of the applicant/petitioner. Exhibit PC is the matriculation certificate showing the marks of the petitioner in matriculation examination as 454 out of 600 whereas Exhibit PW8/A of the matriculation certificate shows his marks as 341 out of 600.*

*There is no force in the argument raised by the learned counsel for the petitioner that the petitioner had never submitted the said application for admission. There was no occasion for any other person to apply on behalf of the petitioner by attaching a forged matriculation certificate. The only beneficiary was the petitioner. Thus, the prosecution had been successful in proving its case. Both the Courts below have rightly convicted the petitioner under Section 471 IPC.*

*Accordingly, the conviction of the petitioner is maintained.”*

It cannot possibly be disputed that conviction of the petitioner and upheld by this Court is in relation to an offence involving moral turpitude.

Perusal of the impugned order dated 27.09.2013 (Annexure P-4) would reveal that apart from conviction of the petitioner what has weighed with the authorities is his conduct leading to conviction and the offence against the petitioner falling within the definition of moral turpitude. It is not a case where the respondent authorities have proceeded

in a mechanical fashion and denied appointment to the petitioner solely on conviction.

It is by now well settled that mere selection does not vest an indefeasible right to appointment. It was open for the competent authority to have denied appointment even to a selected candidate on some cogent and rational basis. Even though the petitioner has been granted benefit of probation and Section 12 of the Probation of Offenders Act, 1958 contemplates removal of disqualification attached to conviction yet the respondent authorities have gone a step further in having examined the conduct of the petitioner leading to his conviction i.e. having furnished a matriculation certificate with forged marks. Such an allegation and offence involves moral turpitude.

This Court as such does not find any infirmity in the impugned order declining appointment to the petitioner on the post in question.

Petition is, accordingly, dismissed.

**24.08.2016**

vandana

**(TEJINDER SINGH DHINDSA)  
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No