

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12199 of 2017.

Date of Decision:-06.07.2017.

Dinesh

.....Petitioner

Versus

Union of India and others

.....Respondents

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

Present: Mr. Mohinder Singh, Advocate for the petitioner.

P.B. BAJANTHRI, J. (Oral)

Petitioner has questioned the validity of the order dated 1.5.2017 (Annexure P-15) by which his candidature for the post of Sub-Inspector in CISF has been declined with reference to the fact that he was involved in FIR No.742 of 2012 for the offences under Section 356 and 379 IPC. On an earlier occasion, petitioner had approached this Court for identical relief. This Court was pleased to set aside the decision taken by the respondents on the score that declining petitioner's claim for appointment is with reference to the MHA (Police-II Division Guidelines issued vide Para.2(V) of their letter dated 01.02.2012. In view of the judicial pronouncement in the case of “**Avtar Singh Vs. Union of India and others SLP (C) 20525/2011** decided on 21.07.2016-2016(3) S.C.J.672”, the competent authority has to take appropriate decision while examining various factors that even though candidate is acquitted in the criminal case

having regard to the principles laid down in Avtar Singh's case (supra), this Court remanded the matter to the competent authority on 16.11.2016. On 1.05.2017, the respondent while re-examining the petitioner in the light of Avtar Singh's case (supra) passed the following order:-

“i) He has been acquitted from the criminal charges by giving benefit of doubt and that witness had turned hostile.

ii) The offence in the charge sheet u/s 379 of IPC, falls in the category of serious offence. MHA guidelines says that “though later on acquitted by extending benefit of doubt or acquitted for reasons that the witnesses have turned hostile etc. will generally not be considered suitable for appointment in CAPF.

iii) As per Para.30(5) of JO dated 21.07.2016 in SLP (C) No.20525/2011 (Avtar Singh Vs. UoI and others), the Hon'ble Supreme Court has authorized the department to consider the antecedents and the department cannot be compelled to appoint the candidate even when he has made declaration truthfully of a concluded criminal case.

04. This issues with the approval of DG CISF.”

In Avtar Singh's case (supra), Supreme Court has specifically directed the concerned department or competent authority that Department cannot be compelled to appoint the candidate even when he has made declaration truthfully of a concluded criminal case etc. The Department is of the opinion that even though petitioner has been acquitted from the criminal charges, it was on the benefit of doubt that witnesses had turned hostile. In view of the reasoning assigned in the order dated 01.05.2017, no ground has been made out by the petitioner insofar as challenge to the order

Petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

July 06, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.