

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

(1) CWP No. 11122 of 2013 (O&M)
Date of Decision: 31.10.2018.

Gurpreet Singh ... Petitioner
Versus
State of Punjab and others ... Respondents

(2) CWP No. 1865 of 2014 (O&M)

Didar Singh ... Petitioner
Versus
State of Punjab and others ... Respondents

(3) CWP No. 19506 of 2015 (O&M)

Karan Singh ... Petitioner
Versus
State of Punjab and others ... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present: Mr. H.P.S. Ishar Advocate,
for the petitioner(s).

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN.J.

This judgment shall dispose of aforementioned three civil writ petitions as common questions of facts and law are involved therein.

The facts are being taken from C.W.P. No. 11122 of 2013. The petitioner has sought quashing of order dated 05.05.2011 (Annexure P-3); intimation letter dated 29.06.2011 (Annexure P-4) and; letter dated 18.02.2013 (Annexure P-6) vide which the claim of the petitioner for appointment as Constable in Punjab Armed Police has

been rejected.

The facts of the case are that the petitioner was recruited in 13th Battalion, PAP in the year 2010 and was allotted constabulary/belt No. 13/305. However, the petitioner was not allowed to join duty on account of registration of FIR No. 92 dated 26.09.2008 registered under Sections 323, 341 and 504 read with Section 34 IPC at Police Station Kot Kehloor, District Bilaspur. The FIR in question was compounded before the Lok Adalat and the petitioner was discharged in terms of Section 320 Cr.P.C vide order dated 27.02.2010 (Annexure P-2).

It has been contended that despite the fact that the petitioner has been acquitted, the claim of the petitioner for appointment as Constable has been declined vide order dated 05.05.2011 (Annexure P-3). It has been further contended that the offences in question do not fall within the definition of moral turpitude.

On the other hand, it is contended that at the time of making application for the post of Constable, the FIR in question was pending against the petitioner. However, the petitioner had concealed the material information while filling the application form whereas, he was required to mention in coloumn No.16 of the application form whether any criminal case was pending against him.

Heard.

It is to be seen at the time of filling the application

form, the FIR in question was pending against the petitioner. The

petitioner had concealed the factum of registration of FIR from the respondent-department. Hon'ble the Supreme Court in **Union Territory, Chandigarh Administration and others vs. Pradeep Kumar and another AIR 2018(SC) 376** held as under:-

“Entering into the police service required a candidate to be of good character, integrity and clean antecedents. In **Commissioner of Police, New Delhi and another vs. Mehar Singh (2013) 7 SCC 685**, the respondent was acquitted based on the compromise. This Court held that even though acquittal was based on compromise, it is still open to the Screening Committee to examine the suitability of the candidate and take a decision. Emphasizing upon the importance of character and integrity required for joining police force/discipline force, in Mehar Singh case, this Court held as under:-

"23. A careful perusal of the policy leads us to conclude that the Screening Committee would be entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they are acquitted or discharged if it feels that the acquittal or discharge is on technical grounds or not honourable. The Screening Committee will be within its rights to cancel the candidature of a candidate if it finds that the acquittal is based on some serious flaw in the conduct of the prosecution case or is the result of material witnesses turning hostile. It is only experienced officers of the Screening Committee who will be able to judge whether the acquitted or discharged candidate is likely to revert to similar activities in future with more strength and vigour, if appointed, to the post in a police force. The Screening Committee will have to consider the nature and extent of such person's involvement in the crime and his propensity of becoming a cause for worsening the law and order situation rather than maintaining it. In our opinion, this policy framed by the Delhi Police does not merit any interference from this Court as its object appears to be to ensure that only persons with impeccable character enter the police force.

24. We find no substance in the contention that by cancelling the respondents' candidature, the Screening Committee has overreached the judgments of the criminal court. We are aware that the question of co-relation between a criminal case and a departmental enquiry does not directly arise here, but, support can be drawn from the principles laid down by this Court in connection with it because the issue involved is somewhat identical, namely, whether to allow a person with doubtful integrity to work in the department. While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end

in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit. An acquittal based on benefit of doubt would not stand on a par with a clean acquittal on merit after a full-fledged trial, where there is no indication of the witnesses being won over. In **R.P. Kapur vs. Union of India AIR 1964 SC 787** this Court has taken a view that departmental proceedings can proceed even though a person is acquitted when the acquittal is other than honourable.

25. The expression “honourable acquittal” was considered by this Court in **S. Samuthiram (2013) 1 SCC 598**. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 IPC and under Section 4 of the Eve-Teasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in **RBI v. Bhopal Singh Panchal (1994) 1 SCC 541**, where in somewhat similar fact situation, this Court upheld a bank’s action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in the departmental proceedings. This Court observed that the expressions “honourable acquittal”, “acquitted of blame” and “fully exonerated” are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression “honourably acquitted”. This Court expressed that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.

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33. So far as respondent Mehar Singh is concerned, his case appears to have been compromised. It was urged that acquittal recorded pursuant to a compromise should not be treated as a disqualification because that will frustrate the purpose of the Legal Services Authorities Act, 1987. We see no merit in this submission. Compromises or settlements have to be encouraged to bring about peaceful and amiable atmosphere in the society by according a quietus to disputes. They have to be encouraged also to reduce arrears of cases and save the litigants from the agony of pending litigation. But these considerations cannot be brought in here. In order to maintain integrity and high standard of police force, the Screening Committee may decline to take cognizance of a compromise, if it appears to it to be dubious. The Screening Committee cannot be faulted for that.

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35. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent times, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by the Delhi Police to ensure that persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of the trust reposed in it and must treat all candidates with an even hand."

The petitioner has concealed material facts with regard to pendency of the FIR from the department while making application for the post. There is nothing to suggest that the decision of the concerned Committee is *mala-fide*. Taking into consideration the conduct of the petitioner and the law laid down in **Pradeep Kumar's case (supra)**, the present petitions are dismissed.

A photocopy of this order be placed in the file of other connected case(s).

31.10.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No