

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM No.10946-CWP of 2018 in/and
CWP No.23611 of 2012 (O&M)

Date of Decision:13.8.2018

Babloo Chauhan

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Pardeep Sehrawat, Advocate for
Mr.Vivek Goyal, Advocate for the petitioner

Ms.Shruti Jain Goyal, DAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

CM No.10946-CWP/2018

This is an application for fixing an actual date of hearing.

By consent, the matter is taken up for final disposal today itself. CM is disposed of.

CWP No.23611 of 2012

1. The petitioner was a candidate for the recruitment of Male Constable (General Duty) in an advertisement issued on 1st September, 2008 for filling up 5456 posts of afore said category. He cleared the physical test on 21st May, 2010 and was interviewed on 23rd June, 2011 and thereafter, he was selected, but was not appointed because during verification, it was found that after the interview, 3 FIRs were registered against him i.e. (1) FIR No.190 dated 16.11.10 under Sections 392/24 IPC, 25/54 of Arms Act registered at P.S.Chapper (Yamunanagar); (2)FIR No.178 dated 23.11.2010 under Sections

392/394 IPC registered at PS Barara and (3) FIR No.191 dated 25.11.2010 under Sections 392/34 IPC, 25 of Arms Act registered at PS Chappar, Yamunanagar. He was acquitted in these criminal cases. The acquittal was on the basis of benefit of doubt given by the trial court since the material witnesses had turned hostile and did not support the prosecution story and failed to identify the accused person. For these reasons, Constabulary number was not allotted to the petitioner against which action this writ petition was filed in 2012 seeking directions for appointment.

2. Looking to the background of the petitioner, I find no illegality in the action of the respondents in not appointing the petitioner as a Constable to serve in a uniformed force which requires unimpeachable character. Despite that, the case of the petitioner for allotment of constabulary number was re-considered by the respondents in view of the guidelines issued on 2nd July, 2007 (Annex. R-I) by the Director General of Police, Haryana as a result of clarification sought by some Chairman of Selection Boards regarding appointment of candidates who have been acquitted before and after submission of application forms for recruitment as constables. The relevant guidelines dated 2.7.2007 read as under:-

“2. The matter has been examined and it is clarified that:

a) Candidates who were involved in criminal cases and stand acquitted at the time of declaration of selection list may be considered for appointment as constable even if they had not disclosed the fact of their facing trial or acquittal in column no.12 of the application form. But those candidates who have faced charges of moral turpitude during their trial

but got acquitted merely on technical grounds or on account of giving of benefit of doubt may not be considered for appointment as constable. In this regard, it is stated that all cases of acquittal in charges of moral turpitude should be minutely examined after careful appraisal of the judgments and such candidates who have been acquitted honourably may, however, be considered for appointment as constable.

b) All those candidates who are facing trial for any criminal offence will not be considered for appointment as constable.

c) Candidates who have been convicted for any criminal offence shall not be given appointment.”

3. The matter was further examined by the Director General of Police, Haryana vide Annex. R-11 the contents of which read as under:-

“2. This matter has been further examined and clarification conveyed vide this office letter referred to above is modified as under:-

a) Candidates against whom cases are pending should be considered for allotment of Constabulary number except those who are facing investigation/trial or have been convicted in offences involving moral turpitude.

b) The candidates acquitted on technical grounds in offences involving moral turpitude, shall also not be considered for allotment of constabulary number.

c) Candidates who on appeal have been declared medically fit by the PGIMS Rohtak may be considered for allotment of constabulary numbers.”

4. It was clarified that the candidates acquitted on technical grounds in offences involving moral turpitude should

also not be considered for appointment. The case of the petitioner was re-considered vide order dated 17th June, 2013 (Annex. R-III). The officer opined that the petitioner was involved in cases for offences under Section 392 IPC (Robbery) thrice and was acquitted by the court every time by giving benefit of doubt. It is mentioned that the petitioner has serious cases of property offences against him and seems to be a repeat offender. It was thus not desirable to have such a person in the police force and therefore, his claim for allotment of constabulary number for the post of Constable was rejected by the respondents.

5. On a consideration of the matter, I have no reason to differ with the views expressed by the respondents-Department in the impugned order refusing to allot constabulary number to the petitioner. The petitioner has no fundamental right to appointment. In any case the prayer is also hit by long passage of time. It would not be in public interest even to think of allowing his prayer, after seven years of the interview in a selection process initiated in September 2008.

6. In view of the above, I find no merit in this petition which is accordingly dismissed.

13.8.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No