

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

121

CWP-13138-2018

Date of Decision: May 23, 2018

Krishan Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents.

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. R.S. Budhwar, Advocate
for the petitioner.

Sudhir Mittal, J. (Oral)

The petitioner applied for the post of Constable. He was selected, interviewed and was cleared for appointment. His candidature was rejected during the process of verification of character on the ground that he had been involved in a murder case, even though he had been acquitted therein. The rejection of the candidature of the petitioner is under challenge in this writ petition.

2. Learned counsel for the petitioner submits that Rule 12.18 of the Punjab Police Rules 1934 (for short “the Rules 1934”) governs verification of character and antecedents. Sub-Rule 3 of the said Rules makes it clear that where a candidate has disclosed the factum of registration of a criminal case and the said candidate has been honourably acquitted by the criminal Court, he would be entitled to be selected. Reliance has been placed upon judgment in case of **Joginder Singh Vs. Union Territory of Chandigarh and others, 2015 (2) SCC 377.**

3. Rule 12.18 of the Rules 1934 is reproduced below:-

“12.18: Verification of character and antecedents:-

(1) The appointing authority shall send the verification forms of candidates recommended for appointment by the Haryana Staff Selection Commission to the district police and Criminal Investigation Department with a copy to the District Magistrate for the verification of character and antecedents, as per Form No. 12.18 and Government instructions issued from time to time on the subject.

2) The candidate shall disclose the fact regarding registration of FIR or criminal complaint against him for any offence under any law along-with the current status of such case in application form and verification cum attestation form irrespective of the final outcome of the case. Non-disclosure of such information shall lead to disqualification of the candidature outrightly, solely on this ground:

Provided that where a candidate, who as a juvenile had earlier come in conflict with law and was dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, shall not suffer any disqualification on account of non-disclosure of this fact either in application form or verification cum attestation form.

(3) Where the appointing authority upon verification of character and antecedents of the candidate recommended for appointment comes to know that criminal proceedings against a candidate is in progress and the status of the case is reported to be either under investigation or challaned or cancelled or sent untraced or withdrawn or under trial or has either been convicted or acquitted or the candidate has preferred appeal against the order of the court; the appointing authority upon verification shall deal with the

cases of candidates reported to have criminal cases registered against them and to the matters connected therewith as stated hereinafter;

(a) Where, a candidate is found to have been convicted for an offence involving moral turpitude or punishable with imprisonment for three years or more, shall not be considered for appointment.

(b) Where charges have been framed against a candidate for offence(s) involving moral turpitude or which is punishable with imprisonment of three years or more, shall also not be considered for appointment.

(c) Where, the candidate has disclosed the fact regarding registration of criminal case as described under sub-rule (2) above, and where the status of any case at the time of verification of antecedents of the candidate by local Police is found to be either as 'withdrawn by the State Government' or 'cancelled' or 'sent untraced' or 'acquitted' for any offence, under any law, such candidate shall be considered for appointment in Haryana Police:

(d) Where the 'cancellation report' or 'an untraced report' in a case against a candidate has been submitted by the investigating agency in the competent court of law, the appointment shall be offered only if approval / acceptance of such cancellation or untraced report has been accorded by the trial Court.

(e) Where the candidate has been acquitted in offences related to sovereignty of the State or national integrity i.e. spying against national interest / waging war against the State/act of terrorism/communal disturbance/smuggling of arms, ammunition or Narcotic Drugs & Psychotropic Substances or counterfeit currency etc. besides heinous crimes e.g. murder, rape, dacoity, robbery, kidnapping for ransom, acid attacks, human trafficking, Protection of

Child from Sexual Offences Act, 2012 or Prevention of Corruption Act, 1988 etc., 'on technical grounds' i.e. where, in the opinion of the Court the star/material prosecution witnesses have either been killed or have died or remained untraced or turned hostile or won over and the candidate has been acquitted on account of aforementioned circumstances; such candidates shall not be considered for appointment.

(4) If it is ever revealed that a candidate has got appointment either by concealment of facts or by furnishing false or wrong information or by submitting fake or forged document / certificate, he shall be discharged from the service by the appointing authority from the date of appointment, summarily i.e. without holding a regular disciplinary proceedings, treating him ineligible for 8 service and salary paid to him may also ordered to be recovered."

4. Sub Rule 3(e) of the aforementioned rule *inter alia* provides that if a candidate has been acquitted in a murder case on account of the material witnesses having turned hostile or won-over then such candidate cannot be considered for appointment. The judgment by which the petitioner was acquitted has been placed on record as Annexure P-5. A perusal thereof clearly shows that the complainant and eye-witnesses did not support the prosecution case and resiled from their earlier statements. Thus, the case of the petitioner squarely falls within the four corners of Sub-rule 3(e). The judgment in **Joginder Singh's** case *supra*, cannot advance the case of the petitioner because the said judgment has been passed on the ground that in criminal law there is no distinction between 'acquittal', 'fully exonerated' or 'acquittal on the basis of benefit of doubt'. Rule 12.18 of the Rules 1934, has not been considered therein and thus

the said judgment is distinguishable.

5. A person such as the petitioner is not entitled to be considered for appointment to a disciplined force such as the Police Force.

6. The petition is accordingly, dismissed.

May 23, 2018
sonia arora

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes