

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21487-2015 (O&M)

Date of Decision:-23.02.2018.

Amit Kumar

.....Petitioner

Versus

Union of India, Ministry of Home Affairs through its Secretary and others

.....Respondents

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

Present: Mr. Amit Parashar, Advocate for the petitioner.

Mr. Namit Kumar, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the order dated 27.4.2015 (Annexure P-3) by which the his appointment has been cancelled to the post of Sub-Inspector (Overseer). Further he has challenged rejection of his representation dated 08.05.2015 (Annexure P-4) vide order dated 21.05.2015 (Annexure P-5).

(2.) Respondents have advertised for the post of Sub-Inspector (Overseer) on 18.06.2014 while fixing the last date for submission of application as 31.07.2014. Petitioner who was a candidate for selection and appointment to the post of Sub-Inspector (Overseer) was selected and appointed on 13.02.2015. Pursuant to the order of appointment, he did not report immediately apparently for the reasons that he was facing criminal proceedings. In the meanwhile, candidates were asked to fill up the form of

enrollment. Similarly, petitioner was permitted to fill up the form and he has filled the form on 10.12.2014. After his acquittal in the criminal case, he produced the order of acquittal before the competent authority and reported for duty on 15.04.2015. Joining report was refused. Consequently, he submitted application for taking him to duty and it was rejected on 21.05.2015. Hence, the present petition.

(3.) Learned counsel for the petitioner submitted that as on the last date fixed for submission of application form i.e. 31.07.2014, petitioner was not facing any criminal proceedings. FIR was filed only on 24.08.2014. Thus, petitioner's eligibility is required to be considered on 31.07.2014 and not beyond that date. It was further submitted that *"Policy Guidelines for considering cases of candidates for appointment in CAPFs-pendency of criminal cases against candidates - the effect of:"* dated 1.2.2012 stipulates various conditions under what circumstances, candidates were to be considered for appointment and so also for rejection. Learned counsel for the petitioner relied on sub-para I of para 2 of the guidelines dated 1.2.2012 to the extent that if a candidate does not disclose his/her involvement and/or arrest in criminal case(s), complaint case(s), preventive proceedings etc. under IPC or any other Act of the Central or State Act in the application form, but discloses the same during medical examination/PET and/or in the attestation/verification form in writing, the candidature will not be cancelled on this ground alone. Therefore, disclosure of pendency of criminal case and acquittal of the petitioner on 10.04.2015 is to be taken note of that he has not suppressed the pendency of the criminal proceedings. He also relied on second proviso to III of the Policy Guidelines which reads as under:-

not be debarred if he/she has been finally acquitted/discharged by a Court, whether an appeal is pending or not against such acquittal.”

(4.) Therefore, action of the respondents in cancelling the order of appointment is arbitrary and illegal.

(5.) *Per contra*, learned counsel for the respondents submitted that reasons for cancellation of appointment of the petitioner is that he has suppressed pendency of criminal proceedings as on 10.12.2014, the date on which petitioner filled the form of enrollment. Number of columns in the enrollment form relating to para 12 (a), (b), and (h) of the form candidates were required to submit are relevant for the purpose of deciding the present appeal. Petitioner was arrested. He was prosecuted for criminal offences for which FIR was filed on 24.08.2014, whereas, for column No.12(a) Have you ever been prosecuted for which he has answered “No” i.e. as on 10.12.2014. Undisputedly, petitioner was involved in a criminal case w.e.f. 24.08.2014, the date on which FIR was filed. It was submitted that Policy Guidelines are not helpful to the petitioner's case for the reasons that order of cancellation of appointment is with reference to suppression of pendency of criminal case as on 10.12.2014, the date on which petitioner filled form of enrollment.

(6.) Heard learned counsel for the parties.

(7.) Crux of the matter in the present petition is whether petitioner has suppressed pendency of criminal case as on 10.12.2014 or not? Admittedly on 10.12.2014, petitioner has filled form in particularly item No.12 of enrollment form where he was asked questions like Have you ever been arrested? Have you ever been prosecuted? Are you facing any

prosecution in India or abroad etc. for which petitioner has mentioned “No”. On the contrary, FIR was filed on 24.08.2014 i.e. much prior to filling up of enrollment form as on 10.12.2014. Thus, petitioner has suppressed the factual aspects relating to facing of criminal proceedings w.e.f. 24.08.2014. Even though he has been acquitted on 10.04.2015 that does not absolve suppression of fact relating to pendency of criminal proceedings on 10.12.2014. Petitioner intends joining discipline force before entering into itself he is making false statement. Therefore, he may not be a good candidate. The Policy Guidelines which the petitioner is relying may not be helpful for the reasons that those issues are not relevant in the present case. What is involved in the present case is whether petitioner has suppressed in the enrollment form relating to pendency of criminal case or not? Accordingly, petitioner has not made out a case.

Accordingly, petition stands rejected.

(P.B. BAJANTHRI)
JUDGE

February 23, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.