

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-7833-2011 (O&M)

Date of Decision: 16.10.2019

Satwant Singh

... Petitioner

vs.

Union of India & Ors

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Rajeev Anand, Advocate,
for the petitioner.

Mr. D.P.Gupta, Advocate,
for the respondents.

ARUN MONGA, J.(ORAL)

Challenge herein, *inter alia*, is to an order dated 06.11.2017 (Annexure P-6), whereby, services of the petitioner were terminated under Rule 5 (1) of the Central Civil Services (Temporary Service) Rules, 1965.

2. Brief factual narrative first.

3. Having been successful in the selection process, the petitioner was offered an appointment on the post of Constable (General) in Central Reserve Police Force (CRPF) and he joined as such at Jalandhar on 14.04.2010. Having undergone the combat training of 44 weeks at Recruitment Training Centre, CRPF, Awadi in Tamilnadu, the petitioner as a bolt from the blue was issued an impugned notice dated 01.04.2011 to show cause as to why his services be not terminated under Rule 5 (1), *ibid*.

For ready reference, relevant of said Rule is reproduced hereunder:-

5.Termination of temporary service- (1) (a) *The*

services of a temporary Government servant who is not in quasi-permanent service shall be liable to termination at any time by a notice in writing given either by the Government servant to the Appointing Authority or by the Appointing Authority to the Government servant;
(b) The period of such notice shall be one month.

4. The reason that led to issuance of the notice was non disclosure of registration of an FIR against the petitioner at the time of his recruitment in service. Petitioner gave his detailed representation/reply dated 11.04.2011 (Annexure P-3) which did not find favour with the respondents and hence order was passed for summary termination from service leading to filing of present writ petition.

5. A perusal of FIR bearing No.21 dated 08.02.2010 against the petitioner (accused) would reveal that the same was under Section 323/34 of IPC. Later on, an un-traced report for cancellation of the aforesaid FIR was filed stating that petitioner was never arrested in the case and the said cancellation report was subsequently accepted on 28.08.2010 by the competent Court. Cancellation report (Annexure P-5), whereby, FIR No. 21 dated 08.02.2010 was recommended to be cancelled, states as under:-

“..... During fight, the injury on the left arm of Hardbir Singh with sharp edged weapon was not found to be inflicted and Satwant Singh @ Kala s/o Gurdial singh and Balwinder Singh s/o Teja Singh residents of Dubarji were not found to be involved in the quarrel. The above said Satwant Singh @ Kala and Balwinder Singh are found to be innocent in the above said case and injury on the left arm of the complainant Hardbir Singh was not found to be inflicted with sharp weapon during fight”

6. The pre-requisite of a good moral character of the petitioner and his reputation in the village etc. is not disputed, as the same was

verified through character verification of the petitioner.

07. After hearing the rival contentions of learned counsels and having perused the pleadings alongwith relevant record, I am convinced that the case of the petitioner is squarely covered by a Division Bench judgment rendered by Delhi High Court in case titled **Govt of NCT of Delhi & Anr vs. Robin Singh** which has been followed earlier also by me in a judgment dated 13.09.2019 passed in CWP-7688-2016. At the cost of brevity relevant extract of the judgment, *ibid*, is reproduced as below:-

*“Reference may also be had to a Division Bench judgment of Delhi High Court in case titled as **Govt. of NCT of Delhi and another vs. Robin Singh**, reported as 2010 (7) R.C.R (Criminal), 1007, wherein Pradeep Nandrajog, J.(as he then was speaking for the Bench) observed as under:-*

"16. It is no doubt true that police plays an essential role of enforcement of law and order in modern societies. Without an efficient police force, a society would become anarchic. To ensure that the police force of a state is efficient, the state must ensure that each individual recruited to the police force, at whatever level, must possess the following attributes:-

(a) Physical Strength and fitness/Free from medical diseases.

(b) Emotional maturity, and ability to remain calm in emotionally charged situations.

(c) Ability to exercise initiative in their work.

(d) Good moral character and integrity.

(e) The ability to carry a great deal of responsibility in handling difficult situations alone/ dependability.

(f) Good Judgment.

17. Keeping in view the above attributes, which are the minimum required of a person who becomes a member of the police force, it becomes the duty of the State to carefully screen the candidates with reference to the aforesaid attributes. But, what we find in India is that the only screening done is with respect to the moral character and integrity, physical strength and free from medical disease. Evidenced by the instant case, the first attribute is sought to be verified by archaic means i.e. checking on the police dossiers or relying upon information provided by the candidate himself and the second, of physical strength, by subjecting the candidates to a physical test, and of being free from medical disease by conducting the medical examination. No evaluation pertaining to the emotional maturity, ability to remain calm in emotionally charged situations, ability to handle difficult situations and be responsive and the ability of initiative in work is conducted.

..... XXXXX

49. The last issue which we need to discuss is, whether the respondent should be denied employment in the Police department. It was urged by learned counsel for the petitioner that persons who have a brush with criminal law, even if they are acquitted, are undesirable elements to be inducted as Police Officers. As stated above, there are no guidelines available with the petitioner to declare as to who is undesirable element to prohibit his induction in Delhi Police.

50. The respondent is not being inducted in the higher cadre of the Police i.e. the IPS cadre. He is entering the lower rungs. His address shows his

rural background. The same is: R/o VPO Mulhera, District Meerut, U.P.

53. The respondent was born on 21.05.1987. The age of the respondent when he was made an accused in the Non-Cognizable Report would be 19 years. The trivial offence of what he was charged of, in which he has been acquitted, cannot make him a criminal of a kind where public interest requires his non-induction in the Police force and that too as a Sub-Inspector (Executive) and that means his duties would be clerical and not with arms and surely not on the streets requiring him to deal with public. Assuming that the petitioner did the acts of which he was accused of, the same is a trivial brawl which he had in the village. Some fist blows with choicest abuses in tandem were hurled at the victim."

I am in respectful agreement with the aforesaid observations and ratio as summed up in Delhi High Court judgment, ibid."

08. Apart therefrom, a perusal of instructions/guidelines dated 01.02.2012 (Annexure P-7) which were direct fall out of Govt of NCT of Delhi' case, *ibid.* leaves no manner of doubt that a candidate shall not be barred if only an FIR has been registered and/or the case is under investigation and no charges have been framed either in the FIR or in the complaint by any Court of law.

09. In the present case, not only the charges were not framed pursuant to FIR but the same was dropped/closed in view of closure report dated 14.04.2010 (Annexure P-5).

10. Perusal of cancellation report clearly reflects that petitioner was falsely implicated in the said FIR whatever be the nature of allegations or

imputations of various section of the IPC therein. Nothing was found against the petitioner in the course of investigation and neither he was ever arrested nor charge-sheeted nor any criminal proceeding/trial was initiated. There was, thus, no case ever pending against the petitioner as he, in the preliminary investigation of the FIR itself, was found innocent.

11. In the premise, cancellation report being prior to the recruitment date of the petitioner, he was, in ordinary course, not required to make any disclosure for which he was held delinquent and leading to the issuance of show cause to terminate his services.

12. I am of the view that it is irrelevant as to when the cancellation report was accepted. Ordinarily a citizen would have legitimate expectation and reason to believe that once cancellation report has been prepared and filed by the Investigating Authority, the case is practically closed, subject, of course, to the same not being accepted at later stage for which the consequences could have followed if that were the case here.

13. In the aforesaid premise, I see no reason as to how the impugned order dated 06.11.2017 (Annexure P-6) can be sustained in law. Accordingly, the same is set aside with liberty to the petitioner to approach the respondent(s) for all consequential benefits.

14. Disposed of in above terms.

16.10.2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No