

RA-CW-519-2017 (O&M) in
CWP No. 21678 of 2017

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RA-CW-519-2017 (O&M) in
CWP No. 21678 of 2017
Date of Decision: 06.05.2019

Sandeep

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

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

AMOL RATTAN SINGH, J. (ORAL)

Mr. Mamli today has drawn attention to paragraph 19 of the judgment of the Supreme Court in **S. Nagaraj** vs. **State of Karnataka** 1993 (4) SCT 264. He also further draws attention to paragraph 4 of the judgment of a co-ordinate Bench of the Delhi High Court in **Delhi Pradesh Taxi Union and another** vs. **Airport Authority of India and others** 2003 (2) SCC 710, to submit that the paramount consideration before a Court even while reviewing its own earlier decision would be that there should not be any miscarriage of justice and consequently, this Court having issued notice of motion in (what are stated to be) identical petitions filed earlier, the order dismissing the writ petition in the present *lis*, should not have been passed and therefore that order deserves to be reviewed.

He also submits that as per the judgment of the Supreme Court in **Commissioner of Police and others** vs. **Sandeep Kumar** (2011) 4 SCC 644, the

Supreme Court has held, in similar circumstances, that simply because an applicant

did not disclose that criminal proceedings are pending against him at the time when he filed an application for enrollment as a Constable, would not debar him from participating in the selection process and even getting selected (especially if he has been subsequently acquitted in such criminal proceedings).

Whereas what Mr. Mamli submits may be absolutely true in the light of both the judgments of the Supreme Court, as also in the light of the fact that this Court had (as has been brought to its notice), issued notice of motion in a similar petition, i.e. CWP No. 20081 of 2017 on 06.09.2017, (which petition had been thereafter allowed by a co-ordinate Bench), whereas the accompanying petition had been dismissed by this Court on 09.10.2017, however I still find myself unable to review that order, in view of the fact that a particular view has specifically been taken in the said order, which reads as under:-

“The petitioner having falsely declared in his application form that there was no criminal case pending against him, when admittedly there was an FIR registered against him at the time, even though subsequently he has been acquitted of the charges by the trial Court, I see no reason to entertain this petition, seeking continuation of the petitioners' appointment as a Constable.

Had the petitioner disclosed in his application form that there was an FIR pending against him and simply on that count his application form had been rejected, he may have had a 'fool proof' case in his favour. However, in the circumstances that he actually gave false information in his application form, I see no reason to entertain this petition.

Dismissed.”

Consequently, the ground for reviewing an order or judgment being an error patent on the face of the record, I would take it that the error has to be

patent on the face of the pleadings/evidence in the particular case specifically and not in the context of another petition in which simply notice of motion may have been issued earlier.

Consequently, without making any comment either on the merits of the case of the case of the petitioner especially in the light of the judgment of the Supreme Court in Sandeep Kumars' case (supra), I still find myself unable to review the order dismissing the petition, having taken a particular view in it, erroneous or otherwise.

Consequently, this application is dismissed.

May 06, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No.