

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.30940 of 2018 (O&M)
Date of Decision: 04.07.2019**

Heera Lal

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Umesh Aggarwal, Advocate,
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

ARUN MONGA, J.(ORAL)

1. Assailed herein is an order dated 28.02.2018 (Annexure P-3) vide which services of the petitioner have been terminated on the ground that he has violated condition No.10 of the appointment letter.

2. For ready reference condition No.10 as contained in the appointment letter is reproduced hereinbelow:-

“10. In case it is found that the candidate has been dismissed earlier by any Department or has been declared as an accused by any court under any law or any criminal case is pending against him in any Court, then in that eventuality, his services will be terminated.”

3. Petitioner applied for the post of 'Warder' in 'Backward Class' Category vide advertisement dated 12.10.2011. He appeared for the fitness test on 12.04.2012 followed by interview on 14.06.2017 and thereafter an appointment letter was issued on 07.12.2017. However, his services were terminated vide impugned order dated 28.02.2018 (Annexure P-3). He submitted representation dated 17.07.2018 (Annexure P-4) before respondent No.3 which was rejected vide an order dated 01.08.2018 (Annexure P-5). Petitioner then filed an appeal before Additional Director General of Police-respondent No.2 which too was dismissed vide order dated 25.10.2018 (Annexure P-7). Hence, the present writ petition.

4. Learned counsel for the petitioner strenuously argues that there was no requirement on the part of the petitioner to disclose pendency of FIR which was yet at the preliminary stage of investigation and the termination order, therefore, cannot be sustained in law.

5. Per contra, learned State counsel submits that Rule 3 of the Government Employees (Conduct Rules) 1966, as amended envisages that every Government employee shall, at all time, maintain absolute integrity. Relying on the same, she submits that the petitioner was under an obligation to disclose the registration of the FIR against him. She thus justifies the impugned orders herein.

6. Having gone through the pleadings and after hearing

learned counsel for the parties, I am of the view that the stand taken by the respondents as sought to be justified by the learned State counsel is not sustainable in law.

7. Conceded case of the respondents as per the joint reply filed by way of affidavit of Sh. Surinder Singh, Deputy Inspector General of Prisons is that the petitioner at the relevant time was involved in two FIRs i.e. one FIR No.79 dated 30.07.2017, registered at Police Station Chaula Sahib, Tarn Taran and the other FIR No.126 dated 21.06.2017, registered at Police Station City Tarn Taran.

8. A perusal of the letter dated 03.08.2018 (Annexure P-2) by the Inspector General of Police, Amritsar addressed to the Director, Bureau of Investigation, Government of Punjab clearly reflects that after making due inquiry/investigation in the said two FIRs, petitioner was found innocent in one FIR i.e. FIR No.79.

9. Without going deeper into factual matrix, suffice to observe that a perusal of Condition No. 10 of appointment letter, *ibid* leaves no manner of doubt that what is required on the part of a candidate is to disclose if he is declared as an accused by any Court or there is a criminal case pending against him in any Court prior to his appointment. Mere registration of FIR or its pendency during the investigation stage does not amount to violation of clause 10, *ibid*.

10. I am thus in agreement with the contentions of learned counsel for the petitioner and in view of my discussion and

reasoning contained hereinabove, the writ petition is allowed.

11. Termination order dated 28.02.2018 (Annexure P-3) as also consequential appellate order dated 25.10.2018 (Annexure P-7) are set aside. The respondents are directed to reinstate the petitioner in service. He is entitled to all consequential benefits in accordance with law.

04.07.2019
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No