

Civil Writ Petition No. 9623 of 2020 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 9623 of 2020 (O&M)

Date of decision : September 29, 2020

Darshan Singh

....Petitioner

versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. G.S.Gopera, Advocate, for the petitioner

Ms. Harsh Rekha Kapoor, AAG, Haryana for the respondents

Fateh Deep Singh, J.

Petitioner Darshan Singh in pursuance of advertisement dated 21.7.2008 issued by the respondent-State of Haryana inviting applications for the post of General Duty Constables (Male) in the Haryana Police, applied for the same. As per the list of successful selected candidates issued in May, 2011, the petitioner was found eligible and allotted Serial No. 41 Registration No. 969 BC-B. Vide orders dated 20.2.2014, Annexure P/5, the Commandant, 5th Battalion, Madhuban called upon the petitioner to join having been allotted to that Battalion for the purpose of enrolment. It is subsequent thereto, two criminal cases being FIR No. 1146 dated

Civil Writ Petition No. 9623 of 2020 (O&M)

10.9.2010, under Sections 408, 411 IPC was registered in Police Station Sector-20, Noida and on account of alleged recovery of arm, connected FIR No. 2866 dated 10.9.2010 under Section 25 of the Arms Act too was registered at Police Station Partapur, Meerut, against the petitioner and another accused. The petitioner stood acquitted in both these cases vide judgment orders dated 6.5.2015 and 4.9.2018. In both these cases the accused was honourably acquitted as is reflected from the orders placed on the record. It is in consequence of this, the respondents refused to issue the petitioner Constabulary number stating the provisions of Punjab Police Rules, 1934 as applicable to the State of Haryana. As a consequence of this, the petitioner invoked the jurisdiction of this Court earlier by filing Civil Writ Petition No. 3758 of 2016 which was disposed off vide order dated 12.5.2017 by this Court directing the petitioner to first approach the competent authority and as a consequence of which the petitioner moved representation Annexure P/8. When nothing materializes, the present petition by invoking the jurisdiction of this Court under Articles 226/227 of the Constitution of India has been filed by the petitioner seeking writ in the nature of certiorari quashing letter/orders dated 17.3.2020 Annexure P/9 issued by the respondents rejecting the claim of the petitioner whereby Rule 12.18(3) of Punjab Police Rules, 1934 was invoked.

The respondents in their response, besides taking preliminary objections, on merits took the plea that the claim of the petitioner for allotment of Constabulary number has been rejected on the grounds that he was facing criminal proceedings though rest of the factual scenario so pleaded was not declined. The respondents reiterated the pendency of the

Civil Writ Petition No. 9623 of 2020 (O&M)

criminal cases and their inability to issue Constabulary number to the petitioner on account of involvement in a criminal case which impinges moral turpitude and concede that the amendment in the relevant Rules have come about in the year 2015 regarding verification of character of prospective candidates for selection and which debars persons like the petitioner from joining the service.

Upon hearing at length Mr. G.S. Gopera, counsel for the petitioner and Ms. Harsh Rekha Kapoor, AAG Haryana for the respondents and perusal of the records.

The petitioner had been selected in consequence of advertisement of posts made on 21.7.2008 and was held to be successful in the year 2011. The amendment to the relevant rules of Punjab Police Rules, 1934 have come about in the year 2015. Thus, by that analogy such a provision cannot be applied retrospectively to the detriment of the petitioner and effect, if any, would be prospective. Even otherwise, at the time of his filling in application form and till the selection, there was no criminal case against him and it is subsequent thereto, he has been involved in these two cases where he has been acquitted. In an earlier view of this Court in **Joginder Singh vs Union Territory of Chandigarh, 2015(1) SCT 87** also relied upon by this Court in **Pawan Kumar son of Sh. Rai Singh vs State of Haryana and others, 2015(2) SCT 838** and **The State of Haryana and others vs Pawan Kumar, Letters Patent Appeal No. 1059 of 2015, decided on 26.5.2016** have squarely held that when the accused is acquitted after full consideration of the prosecution evidence, it

Civil Writ Petition No. 9623 of 2020 (O&M)

is possibly construed that it is an honourable acquittal. Thus, by that settled position of law, the façade under which the respondent-State is trying to take refuge does not holds much ground for them.

In view of the afore going discussions, the present writ petition of the petitioner stands allowed thereby quashing the letter/orders dated 17.3.2020, Annexure P/9 rejecting the claim of the petitioner to be illegal and inoperative thereby issuing writ of mandamus directing the respondents to allot Constabulary number to the petitioner as per rules and to ensure that the petitioner is taken in service with all benefits as per rules.

September 29, 2020
'tiwana'

(Fateh Deep Singh)
Judge

Whether speaking/reasoned ? *Yes/No*

Whether Reportable ? *Yes/No*