

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

114 - CWP-13572-2021 (O&M)

Date of Decision: 29.07.2021

Jitender

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Sanjay Kaushal, Sr.Advocate with
Mr. AP Setia, Advocate for the petitioner

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

The petitioner *inter alia*, seeks quashing of the impugned show cause notice dated 06.07.2021 (P14) issued by respondent No.3 – the Superintendent of Police, Fatehabad for proposed awarding/imposing the punishment of dismissal from service. A further *mandamus* is sought to direct the respondents to withdraw the said show cause notice in view of the fact that the petitioner already stands acquitted in a criminal case and released on probation in another case.

Learned senior counsel submits that if a reference is made to the relevant clause in the advertisement (relevant extract at Annexure P1), it would show that the General condition (iii) did not debar the petitioner from applying for the post of Constable. It is then pleaded that vide public notice dated 12.10.2018 (P2) also, the conditions remained the same which did not debar the petitioner from applying for the said post. He then refers to the attestation form submitted by the petitioner (relevant extracts at Annexure P7) to urge that the petitioner had disclosed it to the authorities that in one of the FIRs, he has been acquitted in 2016 itself and also brought to the notice of the authorities

petitioner was released on probation of one year. Learned counsel then submits that in view of the above, the petitioner was selected and appointed, and in pursuance thereof, the petitioner had joined his service.

It is then submitted that the brother-in-law of the petitioner, on account of some matrimonial dispute, had lodged a complaint on the basis thereof, a departmental enquiry was initiated and opinion of ADA (P10) was sought, according to which, neither of the offences involve moral turpitude nor were they punishable under Rule 13.18(3) of the Punjab Police Rules.

Learned counsel then refers to the findings of the enquiry report (P13) to submit that on all other counts, the enquiry officer has given findings in favour of the petitioner, however, has referred to a notification/memo dated 09.03.2018 (P9) issued by the Home Secretary, Govt. of Haryana to hold that the petitioner could not submit the application for the said recruitment. He apprehends that based on such enquiry report, the department with a pre-determined mind, would pass an adverse order.

Without going into the merits of the case, this Court is of the view that the writ petition is premature at this stage. However, considering the peculiar facts and circumstances as noticed above, this Court deems it appropriate to direct the respondents that in case any adverse order is passed in pursuance to the show cause notice, the same shall not be given effect to, for a period of two weeks from the date of service of said order upon the petitioner. The petitioner may meanwhile, file reply to the show cause notice within one week from today.

Disposed of.

29.07.2021

vishal shonkar

(Girish Agnihotri)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No