

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

Civil Writ Petition No.17755 of 2020

Date of Decision: 22nd April, 2021.

Bhupender

...Petitioner

Versus

The State of Haryana & Others

...Respondents

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Sandeep Jasuja, Advocate,
for the petitioner.

Mr.Amit Aggarwal, DAG, Haryana,
for respondents No.1 to 4 with
Mr. Ashok Bhardwaj, respondent No.4.

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MEENAKSHI I. MEHTA, J.

By way of this petition, the petitioner has sought the indulgence of this Court for the issuance of a writ in the nature of certiorari quashing the order dated 30.09.2020 (Annexure P-7) passed by respondent No.4 whereby he has been disqualified for his selection as Constable in Haryana Armed Police (for short, 'HAP').

2. Shorn and short of unnecessary details, the averments as canvassed by the petitioner in the instant petition, are that in pursuance of Advertisement No.8 of 2015 as notified by the Haryana Staff Selection Commission (for short, 'the HSSC') on 19.07.2015 for inviting the online applications for direct recruitment on 5000 posts of Male Constables including 1650 posts allocated to the General Category, he applied for the said post. Prior thereto, he along-with three more persons had been falsely

implicated in a criminal case as registered vide FIR No.930 dated 22.12.2013 at Police Station, City, Bhiwani under Sections 323/341/34 IPC. Though he was formally arrested in the said case but was released on bail on the same day and finally, he as well as his co-accused, were acquitted in the afore-mentioned case by learned Chief Judicial Magistrate, Bhiwani, vide the judgment dated 06.01.2015 (Annexure P-1).

3. The petitioner has also averred that in his application form, there was one column seeking the following information:-

“Are you convicted for an offence or charges have been framed involving moral Turpitude or punishable with imprisonment for 3 years or more?”

Keeping in view the fact that he had already been acquitted in the above-said criminal case involving minor offences, he answered the above-said query in negative. His physical test was conducted on 13.07.2016 and he cleared the same. Thereafter, he appeared in the written-examination as held on 28.08.2016 and also in the interview-cum-personality test on 17.06.2017. His name appeared at Sr. No.63 in the list of the selected candidates as released on 20.08.2020.

4. The petitioner has, further, averred that on 24.08.2020, he went to join the training at Haryana Police Academy, Madhuban and on the completion of his medical examination on 27.08.2020, he was asked to fill up the Attestation Form. However, while filling up Column No.13 in the said Form, he got confused and construed the same to be the one seeking information regarding any pending criminal case and therefore, he replied the same also in negative therein. He was allocated to 2nd Battalion of HAP and was to be allotted Regimental Number so as to undergo the training at

the said Academy but after his character verification, the Superintendent of Police, Bhiwani, wrote a letter dated 01.09.2020 (Annexure P-6) to the Commander of the Academy (respondent No.4) reporting therein about the entire details of the afore-said criminal case as was registered against him (petitioner). Then, respondent No.4 sought the opinion of the Assistant District Attorney in respect of the said report and thereafter, the impugned order Annexure P-7 was passed disqualifying him for being considered for the allotment of the Regimental Number without affording him (petitioner) any opportunity of being personally heard in this regard and also without taking the factum of his acquittal in the above-said case into consideration as well as appreciating the fact that he had studied in the schools in the rural areas throughout and could not properly understand the intent of the queries posed in Column No.13 of the said Attestation Form.

5. In their written-statement, the respondents have contested the claim of the petitioner, *inter-alia*, on the ground of concealment of the true and material information by him from the competent authority while filling up the Attestation-cum-Verification Form Annexure P-5 by answering the queries, as put-forth in Column No.13 therein regarding his having ever been arrested or prosecuted, in negative which attracts the provisions as contained in Rule 12.18 (2) of the Punjab Police Rules (for short, 'PPR') which provide for the disqualification of the candidature of a candidate on account of non-disclosure of the factum of registration of FIR or criminal case against him for any offence under any law as well as of the current status thereof in the Application Form and the Attestation-cum-Verification Form as well irrespective of the final outcome of the case. They have also asserted

that at the time of filling up the Attestation-cum-Verification Form, the petitioner was required to disclose the true facts by providing the information therein regarding the said criminal case but he intentionally concealed the same and though, he had been acquitted in the said case but his acquittal was based on the factum of the material witnesses having turned hostile in the Court as mentioned in the judgment Annexure P-1 and therefore, he cannot be considered for his recruitment on the post of Constable and thus, the impugned order Annexure P-7 has been correctly passed by respondent No.4 and the same is perfectly legal and justified.

6. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also gone through the file thoroughly.

7. Learned counsel for the petitioner has contended that the petitioner had been falsely implicated in the said criminal case but he had already been acquitted in the same before submitting the application form for seeking recruitment on the post of Male Constable, as advertised by the HSSC and since the offences, involved in the said criminal case, were minor in nature and after being formally arrested in the said case, he had been released on bail on the same day, therefore he did not mention about the same in his Attestation-cum-Verification Form and the impugned order disqualifying him for the allotment of Regimental Number after his selection to the said post, is illegal, arbitrary and unreasonable and the same deserves to be set aside. To buttress his contentions, he has placed reliance upon

Commissioner of Police and Others vs. Sandeep Kumar 2011(4) SCC 644 (SC); Rajesh vs. Union of India & Others 2017(1) PLR 487 (P&H)(SB);

Dharmender Singh vs. Director General of Police, Haryana and others (CWP No. 4916 of 2005 decided on 24.04.2006) (P&H) (DB); Yogendra Kumar Sharma vs. State & Ors, 2010(8) SLR 282 (Rajasthan); Devender Kumar Yadav vs. Govt. of NCT of Delhi & Anr, 2012(25) S.C.T. 814 (Delhi)(DB); Brajesh Singh vs. State of U.P. & Others, 2011(17) S.C.T.291 & Surendra Yadav vs. State of U.P. & Others, 2010(22) S.C.T. 507 (Allahabad)(SB) and Jitender vs. State of Haryana & Others (CWP No. 20007 of 2017 decided on 09.01.2019) (P&H) (SB).

8. Per contra, learned State counsel has argued that in Column No.13(a) & (b) in the Attestation Form Annexure P-5, the queries regarding his having ever been arrested and prosecuted were required to be answered by the petitioner but he intentionally and deliberately concealed the factum of the above-said criminal case having been registered against him and his arrest and prosecution in the same and answered both the said queries in negative and his acquittal in the said case vide the judgment Annexure P-1 does not suffice at all to plausibly and logically explain the non-disclosure of the afore-said facts by him and in these circumstances, the provisions of Rule 12.18(2) of the PPR become fully applicable to his case and thus, impugned order Annexure P-7 has rightly been passed against him in view thereof.

9. Admittedly, the petitioner applied for his recruitment to the post of Male Constable in pursuance of Advertisement Annexure P-2 as notified by the HSSC and had been selected for the same. It is also undisputed that prior to his applying for the said post, the above-mentioned criminal case had been registered against him although he had been subsequently acquitted

therein vide the judgment Annexure P-1. However, while filling up the Attestation-cum-Verification Form Annexure P-5, the following two queries, as contained in column/Clause 13 therein, were to be answered by him :-

“.....13 (i)

(a) *Have you ever been arrested?* *Yes/No*

(b) *Have you ever been prosecuted?* *Yes/No...”*

A perusal of Annexure P-5 reveals that he had answered both the said queries in negative. Though in this petition, he has tried to justify his said answers by pleading that he had studied in the schools in the rural areas throughout and that in the said criminal case as registered against him, the offences alleged to have been committed by him were minor in nature and therefore, he misunderstood the intent of these queries and did not disclose about the same while answering the said queries but however, none of these explanations cogently justifies the said omission on his part because in case he had studied in the schools in the rural areas, even then this Court cannot lose sight of the fact that at the time of filling up his Application Form Annexure P-3 for the said post, he has categorically mentioned therein that he did his Graduation (B.Sc) from M.D.U, Rohtak. Hence, it does not lie in his mouth at all to contend that he could not properly understand/construe the intent of the said queries for the above-mentioned reason. Further, even if for the sake of arguments, the offences involved in the said criminal case are presumed to be minor in nature, even then the fact remains that vide the said Query 13(b), he was simply asked to disclose as to whether he had ever been prosecuted and the factum of his acquittal in the said case vide judgment Annexure P-1, itself speaks volumes of the fact that he had been

prosecuted and had faced the trial in the said criminal case. It being so, the afore-said omission on his part in disclosing the actual state of affairs regarding his implication, arrest and trial in the said criminal case while filling up Attestation-cum-Verification Form Annexure P-5, can be safely held to be the concealment of true and material facts by him from the competent authority.

10. Rule 12.18(2) of PPR (Haryana amended Rule, 2015) provides as under:-

“The candidate shall disclose the fact regarding registration of FIR or criminal complaint against him for any offence under any law along-with the current status of such case in application form and verification cum attestation form irrespective of the final outcome of the case. Non-disclosure of such information shall lead to disqualification of the candidature out rightly, solely on this ground.”

Thus, the case of the petitioner squarely falls within the ambit of the above-said Rule and therefore, the impugned order Annexure P-7 cannot be termed to be illegal, arbitrary or unreasonable.

11. To add to it, the police force is a disciplined force requiring higher standards of character and integrity of its members because their job profile, at all rungs of the ladder of the service, requires them to protect the citizens and to upkeep and maintain the law and order in the State. A three Judges' Bench of the Apex Court has made the following observations in

“Avtar Singh vs. Union of India, (2016) 8 SCC 471:-

“X X X X

30.1 *Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.*

30.2 *While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.*

30.3. *The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.*

X X X X”

In view of these observations, it is quite explicit while taking a decision in the eventuality of a candidate having suppressed or having provided false information regarding his conviction, acquittal or arrest or pendency of a criminal case, whether before or after joining the service, the employer shall/is required to take the Government orders/instructions/rules, applicable to the employee, into consideration. The impugned order Annexure P-7 has been passed in view of the above-discussed Rule 12.18(2) of PPR which as discussed earlier, is fully applicable to the case of the petitioner.

12. The observations as made in **Commissioner of Police (supra); Rajesh (supra); Yogendra Kumar Sharma (supra); Dharmender Singh (Supra); Devender Kumar Yadav (supra); Brajesh Singh (supra); Surendra Yadav (supra)** and **Jitender (supra)** are of no avail to the petitioner to substantiate his claim in the present writ petition in view of the

afore-cited observations as made by a three Judges’ Bench of Hon’ble Supreme Court in Avtar Singh (supra) and also of the fact that the Civil Appeal No.2688 of 2007 preferred by the Director General of Police, Haryana & Ors against the order passed in Dharmender Singh (Supra) has been allowed by the Hon’ble Supreme Court and the said order has been set aside.

13. As a sequel to the foregoing discussion, it follows that this petition is devoid of any merit and therefore, it deserves dismissal. Resultantly, the same stands dismissed accordingly.

22nd April, 2021.

(MEENAKSHI I. MEHTA)
JUDGE

seema

Whether speaking/reasoned?	Yes/No
Whether Reportable?	Yes/No