

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

CWP No.13005 of 2020 (O&M)

Reserved on:21.09.2022

Date of Decision.29.10.2022

Sandeep

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. J.S. Mehndiratta, Advocate  
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

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**JAISHREE THAKUR J.**

1. The petitioner herein approached this Court under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari for quashing order dated 30.06.2020 (P-5) passed by respondent No.4 whereby claim of the petitioner for reinstatement in service on the post of Constable has been rejected.

2. In brief, facts as enumerated in the writ petition are, that the petitioner was implicated in FIR No.545 dated 27.12.2012 registered under Sections 294/506 IPC at Police Station City Narnaul, District Mahendergarh, however, the petitioner stood honourably acquitted vide judgment dated 05.06.2013 passed by the Chief Judicial Magistrate, Narnaul. Thereafter in the year 2018, another FIR No.85 dated 29.03.2018 under Sections 323, 325, 506, 34 IPC was registered against the family members of the petitioner on account of some dispute with the brother of grandfather of the petitioner with complainant wherein most of the family members were nominated, but

the petitioner claims that he was not aware of his involvement as he was never served any notice by the concerned police station.

3. On 16.04.2018, the Haryana Staff Selection Commission issued advertisement No.3/2018 for various posts including 5000 posts of Male Constable in Haryana Police under category No.1, against which the petitioner herein duly applied and selected. The petitioner joined as Constable on 03.03.2019 and also completed his basic training. However, the petitioner was discharged from service by order dated 20.09.2019 passed by respondent No.4 on the ground that the petitioner did not disclose about registration of FIR No.85 dated 20.03.2018 under Sections 323, 325, 506, 34 IPC in verification-cum-attestation form. Against order dated 20.09.2019, petitioner had filed CWP No.948 of 2010, which was disposed of by this Court vide order dated 05.03.2020 with direction to reconsider the case of the petitioner by giving him opportunity of personal hearing. The case of the petitioner was again reconsidered by respondent No.4 and stood rejected vide order dated 30.06.2020, which is under challenge in the instant writ petition.

4. Learned counsel appearing on behalf of the petitioner would submit that in FIR No.545 dated 27.12.2012, the petitioner stood trial and acquitted vide judgment dated 05.06.2013 passed by the Chief Judicial Magistrate, Narnaul. The factum of registration of aforesaid FIR was duly disclosed by the petitioner in the attestation-cum-verification form, however, service of the petitioner has been discharged vide order under challenge on the ground that he concealed the fact that another FIR No.85 dated 29.03.2018 stood registered against him. It is argued that the petitioner was

not aware of the fact that another FIR stood registered against him, as notices issued by the police for joining investigation were never served upon him. In fact, four notices were alleged to be issued by the police for appearance, out of which three were received by brother of grandfather of the petitioner and one was served upon ex-sarpanch of the village, therefore, the petitioner being unaware of his nomination in any other FIR, cannot be attributed to concealment of any fact or misrepresentation.

5. It is further argued that even in FIR No.85 dated 29.03.2018 which made the basis for passing the impugned order, the petitioner has been found innocent, as is evident from the character certificate (Annexure P-3). It is also argued that service of an employee cannot be terminated arbitrarily and illegally merely on the basis of suppression of material fact or giving false information but each case has to be taken into consideration on its given facts and circumstances. In support of his contention, counsel for the petitioner relies upon the judgment rendered by the Hon'ble Supreme Court in ***Pawan Kumar Vs. Union of India and others AIR 2022 (SC) 2829*** wherein the Hon'ble Supreme Court while relying upon the judgment rendered in ***Avtar Singh Vs. Union of India and others AIR 2016 (SC) 3598*** has held that all matters cannot be put in a straitjacket and a degree of flexibility and discretion vests with the authorities, and such discretion must be exercised with care and caution by taking all the facts and circumstances into consideration, including the nature and type of lapse. It is further argued that offences in which the petitioner was alleged to be involved are not of serious nature i.e. of moral turpitude and therefore, a lenient view ought to have been taken by the respondent authorities. In this regard, he

relies upon the judgment rendered by the Hon'ble Supreme Court in **Commissioner of Police and others Vs. Sandeep Kumar (2011) 4 SCC 644** wherein while observing that in the application the respondent therein did not mention that he was involved in a criminal case under Sections 325, 34 IPC probably out of fear that if he did so, he would be automatically disqualified, the Hon'ble Supreme Court upheld the decision of the Delhi High Court of restoring the selection and candidature of the respondent, who was Head Constable (Ministerial) in Delhi Police and dismissed the appeal preferred by the appellant-State.

6. Per contra, learned counsel appearing on behalf of the respondents would submit that the petitioner filled up the application form for the post of Constable on 23.05.2018 whereas the FIR in question was registered against the petitioner on 29.03.2018. Furthermore, the verification form was filled by the petitioner on 03.03.2019 and upon verification of character and antecedents of the petitioner, it surfaced that FIR No.85 dated 29.03.2018 stood registered against the petitioner. Four notices under Section 41(A) Cr.P.C. were issued to the petitioner on 09.06.2018, 31.01.2019, 16.02.2019 and 17.03.2019 by the investigating officer to join investigation, out of which three notices were received by his parents and one by ex-sarpanch of the village. Therefore, it was very much in the knowledge of the petitioner that an FIR stood registered against the petitioner, which amounts to concealment and suppression of material fact. It is argued that Rule 12.18 of the Punjab Police Rules, 1934 as applicable to Haryana, which deals with verification of character and antecedents, was amended vide notification dated 18.06.2015 and as per sub-rule 4 of Rule 12.18, *'if it is ever revealed*

*that a candidate has appointment either by concealments of facts or by furnishing false or wrong information or by submitting fake or forged document/certificate, he shall be discharged from the service by the appointing authority from the date of appointment, summarily i.e. without holding a regular disciplinary proceedings, treating him ineligible for service and salary paid to him may also ordered to be recovered.*

7. It is further argued that in fact, petitioner was nominated as an accused in FIR No.85 dated 29.03.2018 under Sections 323, 452, 506, 325, 34 IPC registered at Police Station Nangal Chaudhary, District Mahendergarh and a cross-FIR i.e. FIR No.86 dated 30.03.2018 2018 under Sections 323, 506, 325, 34 IPC registered at Police Station Nangal Chaudhary, District Mahendergarh was also got registered from petitioner's side against the complainant in FIR No.85 dated 29.03.2018 and others. Furthermore, statement of the petitioner was recorded under Section 161 Cr.P.C. on 30.03.2018 regarding the incident and since he also suffered injuries, MLR of the petitioner was also conducted on 28.03.2018 by Dr. Yogesh Kumar, Medical Officer. Therefore, aforesaid facts make it crystal clear that the petitioner was very much in the knowledge of another FIR filed against him, which information he deliberately concealed while filling up the application as well as the verification form. Police force is a disciplined force and therefore, an aspirant is expected to state all facts correctly as information regarding involvement in any criminal case is of vital importance while adjudging the suitability of a candidate for selection in police force. Reliance has been placed upon the judgment rendered by the Hon'ble Supreme Court in Civil Appeal No.4842 of 2013 titled as

***Commissioner of Police, New Delhi and another Vs. Mehar Singh*** decided on 02.07.2013 wherein it has been held that *‘the police is a disciplined force, which shoulders the great responsibility of maintaining law and order in the society...A candidate wishing to join the police force must be a person of utmost rectitude and must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal and discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force.* It was further held that the decision qua suitability of a candidate for selection in police force can only be taken by the Screening Committee created for the purpose and if the Screening Committee’s decision is not mala fide or actuated by extraneous consideration, then it cannot be questioned.

8. It is also argued that even in first FIR case i.e. FIR No.545 dated 27.12.2012 under Sections 294, 510 IPC registered at Police Station City, Narnaul, District Mahendergarh, the petitioner got acquittal only due to the fact that the complainant and the material witnesses turned hostile and did not support the prosecution version. Further reliance has been placed on the judgment rendered by this Court in CWP No.2042 of 2018 titled as ***Parveen Vs. State of Haryana and others*** decided on 15.02.2019 wherein the petitioners, who were acquitted in the appellate court on the basis of compounding of offence, answered in negative against the column relating information qua arrest, prosecution, detention, fine or conviction by any court of law at any point of time and this Court while dismissing the

aforesaid petition has held that *'In matters regarding determination of fitness, desirability and suitability of a candidate for appointment to public service, the function lies within the special domain of the Government. And so long as rule has been followed and reasons assigned by the competent authority are proper, no interference is warranted. The competent authority in these three cases is the same officer being the Commandant, 4<sup>th</sup> Bn. HAP, Madhuban, Karnal and I agree with him when he holds the petitioners cannot be considered for allotment of Constabulary number for withholding the important information which clearly disentiles them for appointment, as it marks them out as persons, who cannot be trusted to perform their duties with honesty.*

9. I have heard learned counsel for the parties and have perused the paper book with the assistance of learned counsel for the parties and is of the view that the writ petition is liable to be dismissed on the following grounds:-

- (a) The argument of the counsel appearing for the petitioner that the petitioner was not aware of the factum of registration of FIR No.85 dated 29.03.2018 does not hold field, in view of the fact that it is a case of version and cross-version. If FIR No.85 dated 29.03.2018 was got registered by the complainant against the family members of the petitioner including him, there was an FIR No.86 dated 30.03.2018 got registered against the complainant and others by the side of petitioner. Furthermore, MLR of the petitioner was conducted by police and his statement under

Section 161 Cr.P.C. was also registered on 30.03.2018. Four notices dated 09.06.2018, 31.01.2019, 16.02.2019 and 17.03.2019 were sent by the investigating officer to the petitioner to join investigation, which were received by the family members of the petitioner and therefore, it is hard to believe that the petitioner was not aware of the proceedings under FIR No.85 dated 29.03.2018. The argument that the petitioner was not arrested, is not sufficient to hold that the petitioner was unaware of the FIR being registered, considering it was a version and cross version and the FIR was registered a day prior thereto. The petitioner filled the verification form on 03.03.2019 i.e. much after registration of the FIR No.85 dated 29.03.2018 and thus, concealed/suppressed the material fact, which led to passing of order discharging him from service.

- (b) The argument as strenuously raised that the petitioner was unaware and had not been called upon is again not sustainable as the State made every possible effort to serve him as 3 of the 4 notices were issued upon the parents of the petitioner to join investigation, and one was served upon the ex-Sarpanch of the village. There is nothing to establish that the petitioner was not joint in residence with his parents and hence had no knowledge.
- (c) The argument that petitioner was declared innocent in FIR No.85 dated 29.03.2018 is also of no significance, as to

adjudge the suitability of a candidate is in the domain of the appointing authority. Verification of character and antecedents of an aspirant is not mere formality. Such information is sought with a view to appoint persons of unimpeachable and impeccable character in disciplined force. Amendment in Rule 12.18 on 18.06.2015 is a step forward in the said direction, relevant portion of which is not being reproduced for the sake of brevity, as the same has already been reproduced above. In **Delhi Administration through its Chief Secretary and others Vs. Sushil Kumar (1996) 11 SCC 605**, the Hon'ble Supreme Court while dealing with the case where appointment to the post of Constable was cancelled though the candidate was discharged/acquitted under Sections 304, 324 read with Section 34 IPC has held as under:-

*“3.....Verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though the respondent was found physically fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable in the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be*

*unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences.”*

- (d) Even in the case FIR No.545 dated 27.12.2012 under Sections 294, 506 IPC registered at Police Station City, Narnaul, though the complainant specifically named the petitioner in FIR with allegations that he used abusive and obscene language against her and the petitioner was apprehended at the spot and subsequently handed over to the police, the complainant and other material witnesses did not support the case of prosecution and therefore, the acquittal of the petitioner even in the said FIR was owing to the fact that the complainant/witnesses were won over. The Hon’ble Supreme Court in **Union Territory Chandigarh Administration and others Vs. Pradeep Kumar and another (2018) 1 SCC 797**, the Hon’ble Supreme Court has held as under:-

*“13. It is thus well settled that acquittal in a criminal case does not automatically entitle him for*

*appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. From the observations of this Court in Mehar Singh [Commr. of Police v. Mehar Singh, (2013) 7 SCC 685 : (2013) 3 SCC (Cri) 669 : (2013) 2 SCC (L&S) 910] and Parvez Khan [State of M.P. v. Parvez Khan, (2015) 2 SCC 591 : (2015) 1 SCC (L&S) 544] cases, it is clear that a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be mala fide. The Screening Committee also must be alive to the importance of the trust reposed in it and must examine the candidate with utmost character.”*

**In Daya Shankar Yadav v. Union of India, (2010) 14 SCC 103**, the Hon’ble Supreme Court has held that where the declarant has answered the questions in the negative and on verification it is found that the answers were false, the employer may refuse to employ the declarant (or discharge him, if already employed), even if the declarant had been

cleared of the charges or is acquitted. This is because when there is suppression or non-disclosure of material information bearing on his character, that itself becomes a reason for not employing the declarant. In **Devendra Kumar v. State of Uttaranchal, (2013) 9 SCC 363**, the Hon'ble Supreme Court has held that the pendency of a criminal case/proceeding is different from suppressing the information of such pendency. The case pending against a person might not involve moral turpitude but suppressing of this information itself amounts to moral turpitude. In fact, the information sought by the employer if not disclosed as required, would definitely amount to suppression of material information and in that eventuality, the service becomes liable to be terminated, even if there had been no further trial or the person concerned stood acquitted/discharged. In **Avtar Singh Vs. Union of India 2016 (8) SCC 471**, the larger Bench has answered the question of suppression of information and submitting false information in the verification form as having been criminally prosecuted, arrested or as to the pendency of criminal case and the relevant portion is reproduced as under:-

*“30. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus:*

*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.*

*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.*

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XXXX”

- (e) The judgment relied upon by the petitioner in ***Pawan Kumar’s case*** (supra) is not applicable to the facts of the present case, as in the said case, criminal complaint/FIR was registered post submission of the application form and the Hon’ble Supreme Court while distinguishing the judgment passed in **Rajasthan Rajya Vidyut Prasaran Nigam Limited and another Vs. Anil Kanwariya (2021) 10 SCC 136**, set aside the order of discharge by taking into account the fact that at the very threshold, the complainant filed his affidavit that the complaint on which FIR came to be registered was due to misunderstanding and he did not want to pursue his case any further but still chargesheet came to be filed on the next date of hearing. The case in hand is different, as in

the present case, the FIR was in existence before submission of the application form by the petitioner. Moreover, in a later judgment passed by the Hon'ble Supreme Court **State of Rajasthan and others vs Chetan Jeff 2022 SCC OnLine SC 597** while relying the judgment passed in Anil Kanwariya's case (supra), the Hon'ble Supreme Court has upheld the decision of the appellant-State in rejecting the appointment of the candidate, who made a false statement in the application form regarding pendency of criminal cases against him.

- (f) This Court while dealing with the similar issue in CWP No.6721 of 2017 titled as ***Surinder Pal Vs. State of Punjab and others*** decided on 08.07.2022 has upheld the decision of the respondent-State in rejecting the claim of the petitioner therein for appointment to the post of Constable on the ground that he concealed the factum of pendency of criminal trial against the petitioner at the time when final result was declared, in which he stood acquitted after three years after declaration of the final result. Similarly, the Division Bench in LPA No.1215 of 2021 titled as ***Ex. Const. Raical Vs. State of Haryana and others*** decided on 27.07.2022, upheld the order of discharge from service of the appellant therein on the ground that he suppressed the material fact regarding his conviction and applied for the post as if he was a person

having a clean criminal record and, thus, played fraud with the authorities.

10. As an upshot of my finding, the instant petition stands dismissed and the impugned order is upheld.

(JAISHREE THAKUR)  
JUDGE

October 29, 2022

|         |                           |        |
|---------|---------------------------|--------|
| Pankaj* | Whether speaking/reasoned | Yes/No |
|         | Whether reportable        | Yes/No |