

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

**CWP No. 25922 of 2017 (O&M)
Date of Decision:13.9.2022**

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...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Aman Bansal, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR, J.

1. The petitioner herein seeks appointment as Constable in Haryana Police having applied for recruitment under Advertisement No. 8/2015 and also seeks quashing of the order dated 1.9.2017 (Annexure P/8), whereby the appointment of the petitioner in Haryana Police has been rejected.

2. Brief facts are that the petitioner applied for the post of a Constable in Haryana Police, pursuant to an advertisement issued in the year 2/2013. While applying for the post, the petitioner gave details of cases pending against him i.e. FIR No. 312 and 308 of 2012. However, the said examination was cancelled and a fresh advertisement No. 8/2015 was issued on 19.7.2015, whereby applications were invited for filling of 5000 posts of General Duty Male Constables in Haryana Police. The petitioner being fully eligible applied under the Backward Class (B) Category and was issued Roll

No. 1001360148. He cleared the physical measurement and screening test, along with Inter-view-cum-Personality Test. The final result was declared on 23.6.2017 and the petitioner was selected for his enrollment as General Duty Male Constable in Haryana Police. The petitioner, however, was not permitted to join on account of the fact that after verification was done, it was found that two FIRs had been registered against the petitioner. Aggrieved against the action of the respondents in not permitting the petitioner to join despite having been selected, the instant writ petition has been filed.

3. Learned counsel for the petitioner herein would contend that the petitioner had necessary merit and qualifications for being offered appointment as Constable. It is further contended that he had been denied appointment only account of two FIRs having been registered and pending against him. It is submitted that the petitioner stands acquitted in both the cases and, therefore, he ought to have been allowed to join. It is submitted that the cases in which the petitioner was involved did not pertain to any charge of moral turpitude and in fact, non-mentioning about the registration of the FIRs in the application form filled pursuant to the advertisement No. 8 of 2015 was only inadvertent. In fact, he had made necessary mention of the pendency of the FIRs in the online application form submitted in pursuance of the advertisement issued in the year 2013.

4. Whereas, learned counsel appearing on behalf of the respondents—State would submit that the petitioner was duty bound to give and disclose the pendency of the FIRs registered against him. It is

submitted that the petitioner had been selected for the post of Constable and had been allotted a battalion for joining. However, verification report received from SP Nuh, revealed that the petitioner had been involved in FIR No. 316 dated 07.10.2012 registered under Sections 148, 149, 323, 324, 452, 506, 454, 380 IPC and Sections 24, 25, 29 of the Arms Act, at Police Station Tauru, District Nuh and he was acquitted on 5th August, 2016, after giving him the benefit of doubt. It is further submitted that there was another FIR No. 308 dated 29.9.2012 under Sections 147, 148, 323, 325, 348 and 506 IPC, registered at Police Station Tauru, District Nuh. The petitioner was acquitted on 9.7.2014 as the complainant turned hostile. It is further submitted that even in the attestation form, the petitioner replied 'No' to the question whether he had ever been arrested or had ever been prosecuted. It is submitted that the petitioner stood arrested and prosecuted in the FIRs mentioned above and, therefore, there was concealment of material facts. It is also submitted that the petitioner deliberately did not mention that he had applied in the previous advertisement issued in 2013. wherein he had given details of the FIRs pending against him.

5. I have heard learned counsel for the parties and have perused the pleadings of the case and am of the opinion that this writ petition deserves to be dismissed.

It is admitted fact that the petitioner had applied for appointment as a Constable in the year 2013, in which details of the FIRs pending against him were mentioned. However, for the reasons best known to him, he deliberately chose not to give the details of the FIRs in the

subsequent application form filled in 2015 for appointment as Constable in the Haryana Police. It is also relevant to note that in the verification form, the petitioner had replied in the negative to the question whether he had been convicted or charged with criminal offences involving moral turpitude, which is again concealment of material information. As per Rule 12.18 (2) of the Punjab Police Rules, 1934, it is mandatory for a candidate to disclose the fact regarding FIR or criminal complaint pending 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. Merely because the petitioner stood acquitted would not be of any consideration, considering that as on date of his submitting his online application, a criminal case was pending against him and he stood acquitted much thereafter. Therefore, it appears that he concealed/suppressed the factum of registration of FIR against him. 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.

xx xx xx xx”

In **Rajasthan Rajya Vidyut Prasaran Nigam Limited and another vs. Anil Kanwariya (2021) 10 SCC 136**, the Hon’ble Supreme Court has held as under:-

“12. The issue/question may be considered from another angle,

from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment, i.e., while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right."

6 Even recently in the judgment passed in **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.

7. Furthermore, as per Para 13 of the Standing Order dealing with

‘Verification of Character and Antecedents’ and Rule 12.14 of the Punjab Police Rules, the verification of character and background of a candidate is of vital importance in so far as recruitment to the Police Department is concerned and the recruits shall be of good character and great care shall be taken in selecting men of a type suitable for enrolment. 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.”

8. Therefore, this court is of the opinion that since the petitioner

had not disclosed about his involvement in two FIRs, had deliberately concealed his arrest, was acquitted in one case only in June, 2016 and that too after giving a false declaration in the attestation form, he cannot be offered appointment.

9. Consequently, the writ petition is dismissed.

13.9.2022
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No