

**CWP-1509-2023 (O&M)
Date of decision-25.01.2023**

Krishan Kumar

...Petitioner

Vs.

Union of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Gaurav Pathak, Central Government Counsel,
for the respondents.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this writ petition under Article 226 Constitution of India seeking a writ in the nature of Mandamus directing the official respondents to consider his candidature for the post of Soldier (General Duty) as he stands acquitted in criminal trial relating to FIR No.46, dated 06.04.2016, registered under Section 148, 149, 323 and 341 Indian Penal Code, 1860 at Police Station Chhainsa, Faridabad, vide judgment dated 02.12.2022 (Annexure P-5) passed by learned Judicial Magistrate, Ist Class, Faridabad.

Learned counsel for the petitioner submits that the respondents initiated the selection process for filling up the post of Soldier (General Duty) in the year 2016 and the petitioner submitted his application dated 29.07.2016 (Annexure P-1), who later passed various stages of physical,

medical tests etc. before appearing in the written examination, and was finally declared successful. Learned counsel has drawn the attention of this Court to the result dated 27.11.2016 (Annexure P-3) to contend that the name of the petitioner is shown at Sr. No.157, who had also submitted all the requisite documents relating to his educational qualification as well as Character Certificate and police verification, but because of his involvement in the aforesaid criminal case, he was not appointed. According to learned counsel as the petitioner was given a word that after his acquittal, he may again approach the respondents for appointment to the post, therefore, he submitted a representation dated 19.12.2022 (Annexure P-6) to the authorities concerned requesting them to send him on training in Indian Army after his trial ended in his acquittal vide judgment dated 02.12.2022 (Annexure P-5). He submits that his request for joining the service is pending and no action has been taken, therefore, the petitioner is seeking indulgence of this Court for issuance of a direction to the respondents to consider his candidature for the post of Soldier (General Duty).

After hearing the learned counsel for the petitioner and analyzing the material on record, this Court finds that no doubt the petitioner is shown successful in the result declared by the respondents in November, 2016, but because of pending trial against him in respect of abovesaid criminal case, he was not considered for appointment. Even as per the averments contained in the writ petition, the candidature of the petitioner was ignored on legitimate grounds. Further, during the course of hearing, it is not disputed by learned counsel for the petitioner that no promise as alleged by the petitioner was made by the respondents in writing

to offer him appointment after conclusion of the trial case in his favour.

Besides, it is also not disputed by learned counsel that as the selection process was initiated in the year 2016 and all the posts have already been filled up, therefore, at this juncture, this Court does not find any merit in petitioner’s claim.

Resultantly, no case is made out for exercise of writ jurisdiction under Article 226 Constitution of India.

Dismissed.

25.01.2023

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No