

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

LPA-166-2023(O&M)

Date of decision: 17.02.2023

Krishan Kumar

... Appellant

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

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

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 25.01.2023, vide which the writ petition preferred by the appellant has since been dismissed.

Learned counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge: that in the year 2016, the Indian Army organized recruitment rallies for different States across India including the State of Haryana. Applications were invited through online mode from the eligible candidates for the post of Soldier (General Duty). The appellant competed for selection and qualified the Physical Test as also the Medical Examination. Whereafter, he appeared in the written examination and was declared successful on 27.11.2016. But, as he was facing trial pursuant to FIR No.46, dated 06.04.2016, under Sections 148, 149, 323 & 341 IPC, registered at Police Station Chhainsa, Faridabad, the authorities declined to consider his candidature and denied him the appointment. However, he was assured that as and when he would be

acquitted of the charges made against him, he may again approach the authorities for consideration of his claim. He was acquitted by the Judicial Magistrate Ist Class, Faridabad, vide judgment dated 02.12.2022. Accordingly, vide representation dated 19.12.2022, he moved the authorities to allow him to join service. But to no avail.

He asserts that appellant had qualified all the tests and was declared successful. And, but for a criminal case pending against him, he would have been appointed by the authorities. And now that he had been acquitted, the respondents were obliged to afford him employment.

We have heard learned counsel for the appellant and perused the record.

Concededly, the appellant was denied appointment as he was facing trial in a criminal case. Though nothing is placed on record but we may safely presume that it was owing to certain rules/regulations/instructions, which prohibited the authorities to consider the candidature of a candidate who was nominated as accused in an FIR and/or was facing trial, the appellant was denied appointment. The argument that the appellant was orally assured that once he was acquitted, he could re-approach the authorities to consider his claim, lacks conviction and cannot be countenanced. Nothing is placed on record to substantiate the said plea. No rule/regulation/instruction is brought to our notice either that required the authorities, in the given circumstances, to consider and appoint a candidate once he was acquitted in a criminal case. Though it may have no bearing on the matter in issue, but we may still clarify that appellant was acquitted by extending him the benefit of doubt. Further, post initiation of the selection

was acquitted in December, 2022. And, as observed by the learned Single Judge, the selection process stood concluded in the year 2016 itself, and all the posts had already been filled.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is, accordingly, dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

17.02.2023
Rajan

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO