

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

CWP No.15886 of 2021

Date of decision : 22.03.2023

Satnam Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. H.S. Batth, Advocate
for the petitioner.

Ms. Shivani Sharma, Deputy Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition, the petitioner prays for issuance of writ in the nature of mandamus seeking directions to the respondent to allow the petitioner to rejoin as Constable in compliance of the judgment dated 23rd of December, 2016 passed by this Court in CWP No.16191 of 1997.

2. Petitioner herein was selected and appointed as Constable. He continued to serve till his services were terminated in the year 1997. The basis of such termination was due to some infirmities in the selection process pursuant to which he was selected. The termination orders came to be challenged in CWP No.16191 of 1997. The writ petition was disposed off in the following terms :-

“Accordingly, the present writ petition is disposed of with a direction to the respondents to consider the petitioners for appointment against 159 vacant posts against their respective categories, in case they are otherwise eligible. The necessary exercise be done within a period of three months from the date of receipt of certified copy of this order. However, it is directed that the petitioners shall not be entitled for any financial benefits for the period, during which, the writ petition remained pending. In case, the petitioners are still aggrieved in any manner, they are at liberty to avail the appropriate remedy.”

3. The name of the petitioner pursuant thereto was considered but the petitioner was not appointed leading to the present writ petition.

4. Counsel for the petitioner submits that the petitioner is not being appointed on account of registration of a criminal case wherein he was said to be a candidate to be summoned as an additional accused.

5. While issuing notice of motion the Court observed as under :-

“Whereas counsel appearing on behalf of the petitioner-Satnam Singh in CWP No.15886 of 2021 would argue that the reason for denying rejoining/reinstatement is the possibility that the petitioner herein would be summoned as an additional accused under FIR No.124, dated 14.08.2017, under Sections 336, 323, 148, 149 of IPC and Section 25, 27 of the Arms Act, 1959 registered at Police Station Gharinda, District Amritsar Rural. It is submitted that the petitioner has already been declared innocent after investigation and there is no reason for denial of his claim.”

5. Mr. Batth submits that in terms of order dated 23rd of December, 2016 passed by this Court the petitioner cannot be held ineligible owing to the incidents in the interregnum as such consideration will relate back to his original appointment.

6. Per contra, Ms. Sharma appearing for the respondents-State refers to Para No.3 of the additional affidavit of Kehar Singh, PPS, Superintendent of Police, Assistant Commandant, 3rd India Reserve Battalion, Ludhiana, dated 25th of August, 2022 to submit that in compliance of the order dated 23rd of December, 2016 passed by this Court in CWP No.16191 of 1997 the claim of the petitioner was well considered. In order to test his eligibility his character was verified and during such verification it came to the knowledge that there were two FIRs registered against the petitioner including one FIR No.36/1994 registered for offences punishable under Section 307, 326, 323, 324, 148, 149 IPC, at police station Gharinda wherein the petitioner was convicted vide judgment dated 1st of September, 1999 and further in appeal preferred at the behest of the petitioner i.e. CRA No.897-SB of 1999 titled as 'Sartej Singh and others vs. State of Punjab' the compromise was effected and the sentence of the appellant including that of the petitioner was reduced to the one already undergone. Thus, the precise contention is that on character

verification once it was found that the petitioner is a convict for offence punishable under Section 307, 326, 323, 324, 148, 149 IPC having been found ineligible he was not not offered appointment.

7. Faced with the situation, Mr. Batth further submits that during investigation the petitioner was declared innocent and the appeal was further decided on the basis of compromise. Apart from that the Petitioner was never confined to imprisonment which is the factor which ought to have been considered while complying with the order dated 23rd of December, 2016. Resultantly, the same should not be read against the petitioner.

8. I have heard counsel for the parties and have gone through records of the case.

9. Coming on to the first limb of the arguments raised by Mr. Batth, in the considered opinion of this Court the argument raised is misplaced and does not gel with the import of the order dated 23rd of December, 2016. Order passed by this Court is explicitly clear. The petitioners have to be considered for appointment against 159 vacant posts and the same is subject to their being otherwise eligible. In view of the aforesaid direction it cannot be said that the appointment of the petitioner shall be read in continuation of his earlier appointment. The respondent was granted liberty to test the eligibility of the petitioner

afresh and in the character verification once it has been found that the petitioner is a convict that too under Section 307 IPC, no fault can be found with the action of the respondents.

10. So far as the argument raised by Mr. Batth w.r.t. innocence of the petitioner is concerned that too needs to be noticed and rejected. Admittedly, the petitioner was convicted in FIR No.36/1994 *ibid*. In appeal the matter was compromised and on the basis of compromise the sentence was reduced to already undergone. Thus, the net legal effect is that the petitioner remains a convict.

11. In view of the aforesaid, this Court does not find any ground to interfere in the present writ petition and the same is thus ordered to be dismissed.

March 22, 2023

Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/Nos