

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

133

CWP-27275-2023

Date of Decision: 05.12.2023

Amandeep Singh Rajput**...Petitioner**

Versus

State of Punjab and Others**...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Deepak Goyal, Advocate for the petitioner

Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 17.10.2023 (Annexure P-9) passed by respondent No.3 whereby candidature of the petitioner for the post of Assistant Legal Officer in Civil Support Staff in Punjab Bureau of Investigation has been rejected.

2. This is second round of litigation. On the earlier occasion, petitioner preferred *CWP No.21497 of 2023* which came to be disposed of vide order dated 26.09.2023. The respondents were directed to decide representation of the petitioner in accordance with law. The respondent vide impugned order dated 17.10.2023 (Annexure P-9) has rejected candidature of the petitioner. The relevant extracts of the order dated 17.10.2023 read as:

“3. During the police verification of newly selected candidates, it was found that criminal cases were registered

against candidate Amandeep Singh Rajput son of Rajinder Singh Rajput as per the following details:-

<i>Sr. No.</i>	<i>Name of candidate</i>	<i>Name of the Post applied for</i>	<i>Roll No.</i>	<i>Criminal antecedents</i>	<i>Status of criminal case</i>
<i>1.</i>	<i>Amandeep Singh Rajput son of Rajinder Singh Rajput</i>	<i>Assistant Legal Officer</i>	<i>21050000 0580</i>	<i>Case FIR No.17 dated 29.01.2020 u/s 420 of IPC, PS City Dhuri, District Sangrur</i>	<i>This FIR was quashed by the Hon'ble High Court vide order dated 04.10.2021 passed in CRM-M No.34881 of 2021 on the basis of compromise between the parties.</i>
				<i>Case FIR No.295 dated 12.12.2020 u/s 384, 389, 420, 506, 120-B of IPC, Section 511, 211 of IPC added later on, Police Station Sunam, District Sangrur</i>	<i>This FIR was quashed by the Hon'ble High Court vide order dated 10.03.2023 passed in CRM-M-28886 of 2022 on the basis of compromise between the parties.</i>

4. In view of his criminal antecedents, cases of the aforesaid candidate Amandeep Singh Rajput has been considered in view of the settled position of law as laid down by Hon'ble Supreme Court in the case of 'Avtar Singh versus Union of India', AIR 2016 SC 3598. In the aforesaid judgment rendered by the Full Bench of Hon'ble Supreme Court, it has been laid down that the employer has the right to consider antecedents of a candidate and cannot be compelled to appoint a candidate in a case where the employee has criminal antecedents and even may have truthfully made a declaration

of a concluded criminal case. In other words, the employer has been conferred with discretion not to appoint an employee in case such a candidate has criminal antecedents which may have been truthfully declared at the time of submission of application/verification of candidature.

5. *In the aforesaid case of Avtar Singh (supra), the Full Bench of Hon'ble Supreme Court has approvingly quoted the Division Bench decision of Hon'ble Supreme Court in the case of 'Delhi Administration through its Chief Secretary and Others versus Sushil Kumar', (1996) 11 SCC 605, wherein it was held that 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 candidate in the aforesaid case Delhi Administration (supra) was found physically fit, passed the written test and interview and was provisionally selected, but on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable to the disciplined force. It was held that the view taken by the appointing authority in the background of the case was not unwarranted as the incumbent was rightly not found desirable for appointment to the service.*

6. *Applying the above ratio of law to the present case, the appointing authority is well within its discretion provided by the aforesaid judgments to reject the candidature of the aforementioned candidate, mentioned in paragraph 3 above.*

7. *In the present case of the aforesaid candidate Amandeep Singh Rajput, criminal cases were registered against him although the same have been quashed by the Hon'ble High Court. An adverse inference is generated against such a candidate due his involvement in the criminal case(s). Therefore, it is not desirable to issue appointment letter to the aforesaid candidate Amandeep Singh Rajput as the candidate appointed to the service shall remain associated with investigation and prosecution of criminal cases and become a part of disciplined force.*

8. *In view of the law laid down in the cases of Avtar Singh (supra) and Delhi Administration (supra), the antecedents and background of the candidate Amandeep Singh Rajput has been considered and it is hereby ordered that the candidature of the aforesaid candidate Amandeep Singh Rajput is hereby rejected and no appointment letter shall be issued to him.”*

3. Having scrutinized impugned order and considering arguments of learned counsel for the petitioner, this Court does not find it appropriate to invoke extraordinary writ jurisdiction under Article 226 of the Constitution of India. The petitioner was concededly embroiled in two FIRs as noted in the impugned order.

4. The competent authority has passed impugned order noticing judgments of Hon’ble Supreme Court *in Avtar Singh v. Union of India, AIR 2016 SC 3598* and *Delhi Administration through its Chief Secretary and Others v. Sushil Kumar’, (1996) 11 SCC 605*.

5. The Apex Court in *The State of Madhya Pradesh and Others v. Bhupendra Yadav, 2023 AIR (Supreme Court) 4553; Union of India and Others v. Methu Meda, 2022 (1) SCC 1* and *State of Madhya Pradesh and Others v. Abhijit Singh Pawar, 2018 (18) SCC 733* has categorically held that if a person is acquitted, it would not automatically entitle him for employment specifically in disciplined Force. Mere disclosure of offence and result of trial is not sufficient. An employer cannot be compelled to give appointment to such a candidate.

6. In view of peculiar facts and circumstances and aforesaid judgment of Hon’ble Supreme Court, this Court is of the considered view that

the present petition, being bereft of merits, deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

05.12.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>