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

CWP-10999-2022

Date of Decision:09.01.2024

JAYHIND

..... Petitioner

Versus

UNION OF INDIA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.K. Aggarwal, Advocate with
Mr. Ojas Bansal, Advocate
for the petitioner.

Mr. Karan Kumar Jund, Senior Panel Counsel
for the respondents No.1 to 4-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 04.03.2022 whereby offer of appointment dated 13.11.2021 made to petitioner for the post of Constable in I.T.B.P. has been cancelled.

2. The case of the petitioner is that he applied for the post of Constable/Tradesman(Cook) and he was offered appointment on 13.11.2021. The petitioner served notice to respondents on 07.02.2022 pointing out that an FIR No.40 dated 23.04.2020 was registered against him and it is still pending. The petitioner was called upon to show cause as to why his services should not be terminated. The petitioner filed reply to aforesaid notice. The respondent vide order dated 04.03.2022 terminated/cancelled the appointment letter of petitioner.

3. Learned counsel for the petitioner inter alia contends that petitioner was not named in the FIR, however, he was added subsequently in the FIR and no specific role has not attributed to him, thus, no case is made out against the petitioner. The authority was supposed to consider the case of the petitioner in the light of finding recorded by a three judge Bench judgment of Hon'ble Supreme Court in ***Avtar Singh Vs. Union of India and others, 2016 (8) SCC 741***.

4. Mr. Karan Kumar Jund, Senior Panel Counsel for the respondents-UOI, submits that petitioner pursuant to the appointment letter submitted an application wherein he disclosed that an FIR is pending against the petitioner, thus, in view of the guidelines of Ministry of Home Affairs, a show cause notice was served upon the petitioner. The FIR registered against the petitioner is of serious offence and petitioner concealed the registration of above-said FIR in the Form of Enrollment, hence, order was rightly passed by the authority.

To buttress his contention, he relies upon judgment of Supreme Court in ***State of Rajasthan and others Vs. Chetan Jeff 2022 SCC OnLine SC 597***, ***Union of India Vs. Dilip Kumar Mallick 2022 SCC OnLine SC 1370*** and ***Satish Chandra Yadav Vs. Union of India and others, 2022 SCC Online SCC 1300***.

5. I have heard the arguments of learned counsel for the parties and with their able assistance perused the record.

6. From the perusal of Enrollment form, it comes out that there was a particular column enjoining the petitioner to disclose

factum of criminal proceedings. Question 12 of the enrollment form alongwith reply reads as:

- “12. (a) *Have you ever been arrested?* **No**
(b) *Have you ever been prosecuted?* --
(c) *Have you ever been kept under
detentioned or imprisoned?* **No**
(h) *Are you facing any prosecution in any
Court in India or aboard?* -----”

7. From the perusal of above quoted question of the enrollment form, it is quite evident that petitioner was bound to disclose factum of pending criminal trial. A two judge Bench judgment of Hon’ble Supreme Court in **Satish Chandra Yadav’s case (supra)** has dismissed appeal after considering a three judge Bench judgment of Hon’ble Supreme Court in **Avtar Singh’s case (supra)** as well as number of other judgments. In the said case, the appellant had not disclosed pendency of FIR against him.

In the case in hand, in the aforesaid FIR, the police report under Section 173 of Cr.P.C. was submitted on 20.04.2020 wherein petitioner was arrayed as an accused and petitioner submitted his enrollment form on 05.08.2021 wherein he failed to disclose the factum of pending criminal proceedings against him. The case of the petitioner is squarely covered by judgment of Hon’ble Supreme Court in **Satish Chandra Yadav’s case (supra)**. The competent authority has rejected claim of the petitioner considering the fact that petitioner has failed to disclose his true particulars. The Hon’ble Supreme Court in **Satish Chandra Yadav’s case (supra)** has noticed scope of interference in such cases and has come to conclusion that unless it is

shown that exceptional and special circumstances exist or substantial and grave injustice have been done, the Court would not exercise its overriding power under Article 136 of the Constitution of India.

8. In the present case, there is no allegation of *malafide* on the part of respondent and act of respondent does not amount to substantial and grave injustice. In view of judgment of Hon’ble Supreme Court in *Satish Chandra Yadav’s case (supra)*, this Court does not find it appropriate to invoke its jurisdiction under Article 226 of the Constitution of India to set aside the impugned orders.

9. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

09.01.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>