

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

CWP-10334-2018 (O&M)
Date of Decision: 07.08.2024

Ajay Dangi

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Harish Rathee, Sr. DAG Haryana

AMAN CHAUDHARY, J.

1. The father of the petitioner, an Assistant Sub Inspector and awardee of the Bravery Medal by the President of India, had died in 2008, while in service.
2. As per the decision of the Government, the claims of 17 such dependents of deceased employees were considered for appointment, wherein the petitioner was also selected, being 1 amongst them.
3. The petitioner got involved in FIR No.106 dated 30.03.2013, under Sections 148, 302, 307, 323, 120B read with 149 IPC, Section 25 of the Arms and Section 3 of SC & ST Act, wherein he, vide judgment dated 10.08.2017, was acquitted by the Court of Session, however, still by impugned order dated 18.09.2017, he was held to be not entitled to the constabulary number in view of Rule 12.18(3)(e) of Punjab Police Rules, 1934, as

applicable to State of Haryana, which reads thus:

“12.18 Verification of character and antecedents:-

- | | | | |
|-----|-----|-----|-----|
| | xxx | xxx | xxx |
| (3) | xxx | xxx | xxx |
- (e) Where the candidate has been acquitted in offences related to sovereignty of the State or national integrity i.e. spying against national interest/ waging war against the State /act of terrorism/communal disturbance/smuggling of arms, ammunition or Narcotic Drugs & Psychotropic Substances or counterfeit currency etc. besides heinous crimes, e.g. murder, rape, dacoit, robbery, Kidnapping for ransom, acid attacks, human trafficking, Protection oof Child from Sexual Offences Act, 2012 or Prevention of Corruption Act, 1988 etc., ‘on technical grounds’ i.e. where, in the opinion of the Court the star/material prosecution witnesses have either been killed or have died or remained untraced or turned hostile or won over and the candidate has been acquitted on account of aforementioned circumstances; such candidates shall not be considered for appointment.”

4. So as to examine whether the case of the petitioner fell within the purview of the aforesaid provision, it would be apposite to ascertain the premise of his acquittal by the trial Court, the relevant para whereof reads thus:

“74. So far as the involvement of accused Ajay son of Narender is concerned, in this case as per the prosecution story, Ajay son of Narender has provided arms to the main accused and was a party of the conspiracy as disclosed by PW14 Wazir. However, PW14 Wazir has failed to depose about the parentage of Ajay. No motive has been shown for accused Ajay to help Mandeep etc. nor any such evidence has been placed on record showing the motive. No source of acquisition of arms has been collected by the Investigating Officer against accused Ajay son of Narender. Only incriminating evidence against him, is only his disclosure statement. Since, no new fact has been discovered in pursuance of disclosure statement, so the same is not relevant fact. So, the evidence on record is insufficient to hold the accused Ajay son of Narender as guilty in this case.”

5. A beneficial reference can be made to the judgment in **Pawan Kumar vs. State of Haryana**¹, wherein this Court directed the respondents to issue appointment to the petitioner therein, who was involved in a case of Section 302 IPC among others and stood acquitted prior to the declaration of the selection result, while observing that, “Adverting back to the facts of the present case, the trial Court has acquitted the petitioner on account of lack of evidence. Once the allegation which was against the petitioner could not be established by evidence, it cannot be said that the acquittal was on some technical ground. Acquittal in a criminal case for want of evidence is an acquittal on merit. There is no provision for “honourable acquittal” in criminal trial as per criminal jurisprudence. As such, the acquittal of the petitioner has to be viewed as an honourable acquittal and the instructions dated 2.7.2007 and 13.11.2007 at Annexures R3 and R4 along with the reply cannot operate so as to deny to him his right of appointment to the post as a duly selected candidate.” LPA-1059-2015 filed by the State was also dismissed by the Division Bench vide judgment dated 26.05.2016.

6. On a conspectus evaluation, the action of respondents is found to be arbitrary as the appointment has wrongly been denied to the petitioner by misconstruing Rule 12.18(3)(e) *ibid*, his acquittal evidently not being on technical grounds as mentioned therein.

7. Resultantly, the impugned order dated 18.09.2017 is hereby set aside. The present petition is disposed of with direction to the respondents to consider and appoint the petitioner to the post of Constable, in accordance with law, from the date when other similarly situated candidates were,

¹ 2015 (5) SLR 439

however the benefits would accrue to him only notionally. Needful be done within a period of two months from the date of receipt of a certified copy of this judgment.

8. Pending application, if any, stand disposed of.

07.08.2024
M.Kamra

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No