

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARHSr. No.104LPA-859-2020Date of decision : 25.11.2024

Ramji

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJIPresent : Mr.Sunil K.Nehra, Advocate, for the appellant.

Mr.Hitesh Pandit, Addl.A.G., Haryana.

* * * * *

DEEPAK SIBAL, J. (Oral)

1. On 16.04.2018 the Haryana Staff Selection Commission (for short, the Commission) invited applications for appointment to several posts including 5000 posts of Male Constables (General Duty). The appellant applied for consideration of his candidature against one of the advertised 5000 posts. On declaration of the final results the appellant made it to the final select list on the basis whereof a constabulary number was also issued to him. However, the same was subject to verification of his character and antecedents.

2. In his application form the appellant had disclosed that FIR No.299 dated 01.06.2016 under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) had been registered against him at Police Station Samalkha, Panipat. When the status of the said FIR was got verified by the State it was revealed that though the appellant, through judgment dated 17.03.2017 of the Additional Sessions Judge, Panipat, had been acquitted but such acquittal was because the victim and her father, while appearing in the appellant's trial, had not toed the prosecution's line. Accordingly, by giving the appellant the benefit of doubt, the trial court acquitted him.



3. In the light of the above, the State invoked Rule 12.18(3)(e) of the Punjab Police Rules, 1934 (as applicable to Haryana) (for short, the Rules) and dispensed with the appellant's services. At that juncture the appellant knocked the doors of this Court through filing of a writ petition which has been dismissed by a learned Single Judge of this Court. Such judgment is the subject matter of challenge through the instant intra court appeal.

4. Learned counsel for the appellant assails the impugned judgment by submitting that in his application filed by him for consideration of his candidature for appointment as a Constable in the Haryana Police the appellant had duly disclosed the factum of the criminal case that he had faced ending in his acquittal; in any case, once the trial court, after considering the entire case of the prosecution, had acquitted the appellant and that too much prior to his applying for the post in question, the case of the appellant was fully covered in his favour under Rule 12.18(3)(c) of the Rules; irrespective of the afore submissions, the appellant, at the time of registration of the FIR in question, was only 20 years of age who was accused of only following a 16 year old girl and for that the appellant be not punished in a manner which would ultimately affect his entire life and that the trial court while acquitting the appellant has nowhere opined that his acquittal is on account of the victim and her father having turned hostile and therefore, Rule 12.18(3)(e) of the Rules which has been made the basis by the State for dispensing with the appellant's services would not apply in the appellant's case.

5. Per contra, learned State counsel submits that since the appellant faced a criminal case under the POCSO Act and in that case earned acquittal only because the star witnesses for the prosecution had turned hostile, Rule 12.18(3)(e) of the Rules has rightly been invoked by the State to dispense with the appellant's services.



6. Rule 12.18 of the Rules (as applicable to the Haryana) is relevant and therefore, the same is reproduced below for reference: -

“12.18. Verification of character and antecedents:-

(1) The appointing authority shall send the verification forms of candidates recommended for appointment by the Haryana Staff Selection Commission to the district police and Criminal Investigation Department with a copy to the District Magistrate for the verification of character and antecedents, as per Form No. 12.18 and Government instructions issued from time to time on the subject.

(2) The candidate shall disclose the fact regarding registration of FIR or criminal complaint against him for any offence under any law along-with the current status of such case in application form and verification cum attestation form irrespective of the final outcome of the case. Non-disclosure of such information shall lead to disqualification of the candidature out-rightly, solely on this ground:

Provided that where a candidate, who as a juvenile had earlier come in conflict with law and was dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, shall not suffer any disqualification on account of non-disclosure of this fact either in application form or verification cum attestation form.

(3) Where the appointing authority upon verification of character and antecedents of the candidate recommended for appointment comes to know that criminal proceedings against a candidate is in progress and the status of the case is reported to be either under investigation or challenged or cancelled or sent untraced or withdrawn or under trial or has either been convicted or acquitted or the candidate has preferred appeal against the order of the court; the appointing authority upon verification shall deal with the cases of candidates reported to have criminal cases registered against them and to the matters connected therewith as stated hereinafter:

(a) Where, a candidate is found to have been convicted for an offence involving moral turpitude or punishable with imprisonment for three years or more, shall not be considered for appointment.

(b) Where charges have been framed against a candidate for offence(s) involving moral turpitude or which is punishable with imprisonment of three years or more, shall also not be considered for appointment.

(c) Where, the candidate has disclosed the fact regarding registration of criminal case as described under sub-rule (2) above, and where the status of any case at the time of verification of antecedent's of the candidate by local Police is found to be either as 'withdrawn by the State Government' or 'cancelled' or 'sent untraced' or 'acquitted' for any offence, under any law, such candidate shall be considered for appointment in Haryana Police:

(d) Where the 'cancellation report' or 'an untraced report' in a case against a candidate has been submitted by the investigating agency in the competent court of law, the appointment shall be offered only if approval/acceptance of such cancellation or untraced report has been accorded by the trial Court.

(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, dacoity, robbery, kidnapping for ransom, acid attacks, human trafficking, Protection Of 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) xxx xxx xxx”

7. As per Rule 12.18 of the Rules verification of character and antecedents of the candidates recommended for appointment to the District Police and the Criminal Investigation Department is required to be made. If against the recommended candidate criminal proceedings are pending then the verification of his character and antecedents is required to be done in terms of Rule 12.18(3) and its sub rules. Under Rule 12.18(3)(c) where a candidate has disclosed in his application the fact regarding registration of a criminal case against him, in which the candidate has already earned acquittal on account of such criminal case having been withdrawn or cancelled or sent untraced, such candidate is to be considered for appointment in the Haryana Police. However, as per Rule 12.18(3)(d) where the cancellation or untraced report has been submitted by the investigating agency before the competent court in terms of rule 12.18(3)(c) such candidate would get the benefit of such report(s) only if these report(s) have been accepted by the competent court. Similarly, as per Rule 12.18(3)(e), to get the benefit of acquittal under Rule 12.18(3)(c) the candidate's acquittal should not be on technical grounds where the candidate was criminally proceeded against for offences relating to the sovereignty of the State or national integrity or of cases under the Narcotic Drugs and Psychotropic Substances Act, 1985 or pertaining to counterfeit currency etc. besides heinous crimes including cases under the POCSO Act. Under Rule 12.18(3)(e) itself these technical grounds have further been explained to mean



where the court acquits the accused on the ground that the material witnesses having been killed or have died or have remained untraced or turned hostile or won over. As per Rule 12.18(3)(e) in these eventualities the concerned candidate would not be entitled to the benefit of Rule 12.18(3)(c) and resultantly, would not be appointed.

8. In the case, in hand, while applying for appointment as a Constable in the Haryana Police, the appellant had duly disclosed the fact that a criminal case under the POCSO Act had been registered against him in which he had earned acquittal but after having scrutinized the judgment of the trial court acquitting the appellant, we are of the opinion that he cannot be granted the benefit of Rule 12.18(3)(c) as his acquittal was primarily based on the victim and her father having turned hostile while appearing in the appellant's trial. The factum of the victim and her father having turned hostile is clear from the fact that both before the police under Section 161 Cr.P.C. and before the Duty Magistrate under Section 164 Cr.P.C. the victim had specifically made allegations against the appellant of stalking and harassing her through making of obscene gestures but while appearing in the appellant's trial the victim took a complete somersault and went on to depose that except following her the appellant did nothing.

9. The appellant's acquittal in a case registered against him under the POCSO Act being primarily for the reason that the victim and the complainant both had turned hostile. Therefore, in terms of Rule 12.18(3)(e) of the Rules the appellant cannot be granted the benefit of Rule 12.18(3)(c) and consequently, his acquittal cannot lead to his appointment as a Constable in the Haryana Police especially when he seeks appointment to a disciplined force which *inter alia* shoulders the responsibility of maintaining public order in the society.

10. In the light of the above discussion, we find no reason to interfere with



the impugned judgment.

11. Dismissed.

[DEEPAK SIBAL]
JUDGE

25.11.2024
shamsher

[LAPITA BANERJI]
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No