



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

273

**CWP-22424-2023 (O & M)**

**Date of Decision: 25.03.2025**

Rakesh Kumar

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. G.S. Gopera, Advocate, for the petitioner.

Ms. Dimple Jain, DAG, Haryana.

**JAGMOHAN BANSAL, J. (Oral)**

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent to permit him to join as Constable.

2. The petitioner, pursuant to Advertisement No.4/2020, applied for the post of Male Constable. He was issued roll number and appeared in written test followed by physical verification and measurement test. He secured 54.47 marks. The respondent declared final result on 16.06.2022. The petitioner had applied under ESM General category and last selected candidate under said category secured 46.19 marks. The respondent conducted police verification of antecedents of the petitioner. During character and antecedents verification, it was found that petitioner at one point of time was involved in a criminal case. On account of his



involvement in a criminal case, he was not allowed to join even after verification of his biometric credentials.

3. Mr. G.S. Gopera, learned counsel for the petitioner submits that petitioner was implicated in FIR No.148 dated 13.11.2000 under Sections 148, 149, 452, 324, 323 IPC registered at P.S. Israna, District Panipat. At that point of time, he was 16 years and 9 months old. Police after completing investigation filed its report and he was acquitted though on the ground that witnesses have turned hostile. The dispute was between two neighbours. He was acquitted vide judgment dated 21.04.2001 and joined Indian Army on 21.01.2002. He remained in service till 30.11.2018. After retirement from Indian Army, he applied for the post in question. He disclosed his credentials in the application form as well as attestation-cum-verification form. Thus, there was no concealment of facts on his part still respondent has refused to issue joining letter.

4. *Per contra*, Ms. Dimple Jain, DAG, Haryana submits that petitioner at one point of time was involved in a criminal case and charges were framed against him under different sections including 307 and 450 IPC. The offence(s) under these sections fall within definition of ‘moral turpitude’ as per instructions issued by State Government. In terms of Rule 12.18(3)(b) and (e) of Punjab Police Rules, 1934 (as made applicable to State of Haryana) (in short ‘PPR’), the petitioner could not be issued joining letter because he was charged for an offence involving moral turpitude.

5. I have heard the arguments and perused the record.



6. Rule 12.16 of PPR prescribes procedure for direct recruitment. Sub-Rule (4) provides that if an FIR is lodged or is pending against a candidate he shall not be treated eligible for application, if charges are framed against him. Rule 12.16 (4) of PPR reads as: -

*“Rule 12.16 Procedure for direct recruitment:-*

*(1) XXXX XXXX XXXX*

*(2) XXXX XXXX XXXX*

*(3) XXXX XXXX XXXX*

*(4) Applications:-*

*(a) If an F.I.R. is lodged/is pending against a candidate, he shall not be treated eligible for application, if charges are framed against him.*

*(b) Applications with prescribed fee shall be received online. The information submitted online by the candidates shall be final.*

*(c) Roll number shall be allotted to the eligible candidates and put on the official website of the Haryana Staff Selection Commission. Once the roll numbers are allotted, the candidate shall be able to generate to join the process of selection.”*

7. Rule 12.18 of PPR provides that 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 the application form and verification-cum-attestation form. Non-disclosure of such information shall lead to disqualification of the candidate outrightly solely on this ground. Sub-Rule (3) of Rule 12.18 provides for the manner of dealing with a situation arising from verification of character and antecedents. For the ready reference, Rule 12.18 is reproduced as below:-



*“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 subrule (2) above, and where the status of any case at the time of verification of antecedents 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) If it is ever revealed that a candidate has got appointment either by concealment of facts or by furnishing false or wrong information or by submitting fake or forged document/certificate, he shall be discharged from the service by the appointing authority from the date of appointment, summarily i.e. without holding a regular disciplinary proceedings, treating him ineligible for service and salary paid to him may also ordered to be recovered.*

XXXX

XXXX

XXXX

XXXX

*[Emphasis supplied]”*

8. From the conjoint reading of Rule 12.16(4) and 12.18(2), it is evident that it is mandatory to disclose factum of pending FIR if charges are framed against the candidate. If factum of FIR is not disclosed in the verification-cum-attestation form, candidature is outrightly liable to be cancelled. Clause (c) of Sub-Rule (3) of Rule 12.18 further provides that if factum of criminal case is disclosed in the verification-cum-attestation form, a candidate shall be considered for appointment where criminal proceedings are withdrawn or cancelled or candidate is acquitted.

9. The petitioner made full and true disclosure in the application and verification-cum-attestation form. The respondent is not alleging concealment or suppression of facts on his part. The respondent has rejected petitioner's candidature on the sole ground that his case falls under Clauses (b) and (e) of Rule 12.18(3) of PPR. From the perusal of afore-cited Rule 12.18(3) of PPR, it is evident that it covers different situations arising out of registration of FIR. A person may or may not be subjected to face trial after registration of FIR. He may or may not be subjected to charges. He may be acquitted or discharged or convicted. From the deep perusal of clauses of Rule 12.18(3) of PPR, it comes out that all the clauses are contemplating different situations arising out of



registration of FIR. Clause (a) is applicable where a person is convicted for an offence involving moral turpitude or with punishment of imprisonment for 3 years or more. Clause (b) with a situation where trial is pending and charges have been framed for offence involving moral turpitude or which is punishable with imprisonment of 3 years or more. Clause (c) deals with a situation arising on account of withdrawal or cancellation of FIR. Clause (c) also provides that a person shall be eligible for appointment if he has been acquitted for any offence under any law. Clause (d) deals with a situation arising on account of filing cancellation or untraced report. Clause (e) provides for denial of appointment where person is acquitted but was involved in offences relating to sovereignty of the State or national integrity or heinous crimes and he is acquitted on technical grounds i.e. where the Court forms an opinion that star/material prosecution witnesses have either been killed or have died or remained untraced or turned hostile or won over.

10. In the instant case, the petitioner made true and full disclosure in the requisite forms and he was acquitted. Thus, his case is squarely covered by clause (c). The trial stands concluded, thus, there is no question of invoking Clause (b). The respondent is further trying to invoke Clause (e) which is applicable if a person is involved in offence(s) relating to sovereignty of State or heinous crime. As per said clause, heinous crime means 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. The petitioner was not involved in any of the offences. He was involved in a dispute between



two neighbours. He, at that point of time, was minor. It is factually correct that he was acquitted on technical ground i.e. witnesses turned hostile.

11. Hon'ble Supreme Court in **Ravindra Kumar (supra)** has held that nature of offence, timing and nature of criminal case, the judgement of acquittal, nature of query in application/verification form, contents of the character verification report, socio-economic strata of the individual applying and the content of cancellation/termination order should enter the judicial verdict in adjudging suitability and nature of relief to be ordered. Paragraph 32 of the judgement reads as: -

*“32. The nature of the offence, the timing and nature of the criminal case; the overall consideration of the judgment of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio-economic strata of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered.”*

The petitioner herein was minor at the time of commission of alleged offence. The FIR was registered in 2000 and he was acquitted in 2001. He joined Indian Army in 2002 and worked till 2018. He was not dismissed/discharged by Army whereas he was superannuated. He was not involved in any other offence. The dispute was between two neighbours and trial concluded within one year as witnesses turned hostile which *prima facie* indicates that matter was amicably settled between the parties. He was not involved in an offence against sovereignty of State or heinous crime as contemplated under Rule 12.18(3)(e) of PPR. He

2025:PHHC:040527



truthfully disclosed his credentials in the application and attestation form. Thus, his case is squarely covered by afore-cited judgment.

12. In the wake of above discussion and findings, the instant petition deserves to be allowed and accordingly allowed. The respondents are directed to permit the petitioner to join service within 4 weeks from today. It is hereby made clear that the date of joining of the petitioner shall be the date of appointment for all intent and purposes.

25.03.2025

(JAGMOHAN BANSAL)

shivani

JUDGE

|                           |     |
|---------------------------|-----|
| Whether reasoned/speaking | Yes |
| Whether reportable        | Yes |