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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23228-2024

Date of Decision: 28.01.2026

RAHUL KUMAR

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL.

Present:- Mr. Sapan Dhir, Advocate for petitioner

Mr. Aman Dhir, D.A.G., Punjab

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 09.04.2024 (Annexure P-11) whereby his candidature has been cancelled. He is further seeking direction to respondent to issue him appointment letter.

2. The petitioner in 2016 pursuant to an advertisement applied for the post of Constable. He was selected, however, was not issued appointment letter because of non-disclosure of FIR registered against him. He again pursuant to advertisement dated 16.07.2021 applied for the post of Constable. This time he disclosed factum of FIR registered against him. He was selected, however, respondent by impugned order dated 09.04.2024 rejected his candidature. Order dated 09.04.2024 reads as:-

*“Sub: Regarding recruitment of 2343 candidates
(Female/666+Male/1677) in the rank of Constable in
Armed Battalion.*

Memo:

*In compliance of the letter No. 2711/E-1(4) dated
15.03.2024 of the office of Hon'ble Director General of Police,*



Punjab, Chandigarh and order No. 4503-04/CB-PC, dated 26.03.2024 of the office of Additional Director General of Police, State Armed Police, Jalandhar.

On the subject cited above, you are informed that during the recruitment process of appointing you as Constable, it is found that an F.I.R. No. 110, dated 02.06.2014 u/s 21/61/85 NDPS Act was registered against you at P.S C Division, Amritsar has been registered, in which, you have been acquitted on technical grounds by the Hon'ble Court of JMIC Amritsar. Keeping in view the instructions contained in para No. 13(d) (iii) of Standing Order No. 2/2021, the Regimental No. 7/388 allotted to you has been withdrawn by cancelling the approval regarding your appointment as Constable vide letter No. 15536/CB-PC dated 08.11.2023 from the office of the Additional Director General of Police, State Armed Police, Jalandhar.”

3. Learned counsel for the petitioner *inter alia* contends that petitioner in 2016 applied for the post of Intelligence Assistant in the Intelligence Wing of Punjab Police. He was issued appointment letter dated 31.12.2016, however, his selection was cancelled on account of non-disclosure of FIR No.110 dated 02.06.2014 under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) registered against him. He was acquitted by trial Court vide judgment dated 06.12.2017. He again applied for the post of Constable pursuant to advertisement dated 16.07.2021. In the application form, he disclosed factum of registration of FIR and acquittal. He cleared the exam and was found medically fit. The respondent issued him appointment letter on 08.11.2023 and said appointment letter has been cancelled vide impugned order dated 09.04.2024. The respondent has relied upon Standing Order No.2/2021. The respondent has mechanically applied standing order and cancelled appointment letter. The petitioner was acquitted



in 2017 and has duly disclosed this fact in the application form, thus, he cannot be denied post of Constable.

4. *Per contra*, learned State counsel submits that as per standing order, the petitioner could not be issued appointment letter because he was acquitted by trial Court on technical grounds. The trial Court acquitted him on the ground of non-compliance of Sections 42 and 50 of NDPS Act. As petitioner was acquitted on technical grounds, he could not be issued appointment letter as per Standing Order No.2/2021 issued by Director General of Police in exercise of power conferred by Section 45 of Punjab Police Act, 2007.

5. Heard the arguments and perused the record.

6. The respondent has rejected candidature of petitioner on the ground that he was implicated in an offence punishable under NDPS Act and acquitted by trial Court on technical grounds. The respondent has relied upon Clause 13 of Standing Order No.2/2021. Relevant extracts of the Clause 13 of Standing Order reads as:-

“13. VERIFICATION OF CHARACTER AND ANTECEDENTS

a) XXX XXX XXX

b) XXX XXX XXX

c) XXX XXX XXX

d) 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:

(i) Candidate 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;

(ii) Candidate against whom charges have been framed for offence(s) involving moral turpitude or which is punishable with imprisonment of three years or more, shall also not be considered for appointment;

(iii) Candidate who has been acquitted in offence(s) 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 Children 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 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."

[Emphasis supplied]

7. From the perusal of above quoted Clause, it is evident that a candidate who was implicated in an offence relating to smuggling of arms, ammunition or narcotic drugs & psychotropic substances or counterfeit currency shall not be considered for appointment despite acquittal if acquittal was on technical grounds. The petitioner was arrested for possessing narcotic drugs. He was made to face trial for committing offence punishable under



Section 21 of NDPS Act. Section 21 deals with manufacture, possession, sale, purchase, transport, import inter-state, export inter-state or use of drugs. It does not deal with smuggling of drugs. Section 21 of NDPS Act reads as:-

“21. Punishment for contravention in relation to manufactured drugs and preparations.-- *Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable,--*

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.”

[Emphasis supplied]

8. Clause 13(d)(iii) of Standing Order is applicable to smuggling of narcotic drugs and psychotropic substances. In the said Clause, expression “smuggling of arms, ammunition or Narcotic Drugs & Psychotropic Substances or counterfeit currency” has been used. It is apt to mention here that



Punjab Police Rules, 1934 (as applicable to State of Haryana). The petitioner was not implicated in the criminal case alleging smuggling of narcotic drugs. He was implicated alleging possession of narcotic drugs. Smuggling of narcotic drugs and possession of narcotic drugs are two different facets of dealing in drugs. Smuggling is not synonymous or interchangeable with possession. The standing order specifically deals with smuggling of drugs. The petitioner was not accused of smuggling of drugs, thus, standing order was inapplicable to him. He was indubitably acquitted prior to filing application against aforesaid advertisement. He duly disclosed factum of criminal case registered against him, thus, was not guilty of concealment of facts. In these circumstances, inescapable conclusion is that he has been wrongly denied appointment letter.

9. In the wake of above discussion and findings, the impugned order dated 09.04.2024 is hereby set aside. The petition is allowed with a direction to respondent to issue appointment letter to the petitioner within four weeks from today. As conceded by the petitioner, his date of joining shall be his date of appointment for all intents and purposes.

10. Pending Misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

28.01.2026
SDK

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