



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

**CWP-16815-2024
Reserved on 21.03.2025
Pronounced on 25.03.2025**

Manisha

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Jagjot Singh Lalli, Advocate and
Mr. Manish Verma, Advocate for the petitioner
Ms. Dimple Jain, Deputy Advocate General, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to the respondent to issue her appointment letter for the post of Constable.

2. The petitioner, pursuant to Advertisement No.4/2020, applied for the post of Constable under Scheduled Caste Category. She qualified the written test and was selected for physical test and scrutiny of documents. The process of physical test and scrutiny of documents was conducted on 21.10.2021. The petitioner was subjected to medical examination. She was also subjected to police verification. In the police verification, jurisdictional police officer reported that she is not involved in any anti-social activities. The respondent conducted further verification of her antecedents and found that charges were framed against her in FIR No.600 dated 15.11.2018 (Annexure P-5) under Sections 323, 34 and 506 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Sector 5, District Gurugram.



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The aforesaid FIR was quashed by this Court vide order dated 05.04.2024 (Annexure P-7) on the basis of compromise entered into between the parties.

The respondent has cancelled candidature of the petitioner on the ground that she was ineligible to apply because at the time of filing application, she was facing charges framed by Trial Court. It is apt to notice here that charges were framed on 04.10.2019 and application was filed on 27.01.2021.

3. Mr. Jagjot Singh Lali, Advocate submits that petitioner was not named in the FIR and police in the challan implicated her. The Trial Court framed charges against her under Section 323 and 506 IPC. The maximum sentence prescribed under Sections 323 and 506 IPC is two years. The alleged offence does not involve moral turpitude. The matter has been compromised and this Court has set aside aforesaid FIR. The petitioner belongs to Scheduled Caste Category and she is residing in a small colony of Gurugram. She was not named in the FIR and at the time of alleged offence, she was 22 years old. Inadvertently, she did not disclose factum of pending trial in the attestation form. There was no *mala fide* intention on her part. Supreme Court in ***Ravindra Kumar v. State of Uttar Pradesh and others, (2024) 5 SCC 264***, while noticing its judgments in ***Avtar Singh v. Union of India and others, (2016) 8 SCC 471*** and ***Satish Chandra Yadav v. Union of India and others, (2023) 7 SCC 536***, has held that Courts while adjudicating such matters should consider antecedents, nature of offence, timing of criminal case, overall judgment of acquittal, nature of query in application/verification form and socio-economic strata of the candidate before adjudicating claim of the candidate.

4. *Per contra*, Ms. Dimple Jain, Deputy Advocate General, Haryana submits that Punjab Police Rules, 1934 (as applicable to State of



Haryana) (for short 'PPR'), specifically provides that if particulars of FIR, where charges are framed are not disclosed in the application form, the candidate would be ineligible. The advertisement specifically provides that a candidate who is facing trial and charges stand framed would not be eligible to apply. In the case in hand, charges were framed much prior to date of filing application form. The petitioner was ineligible to apply, nevertheless, by concealing material facts she applied for the post. There may be many candidates who had not applied because of pending criminal cases. If she is assigned constabulary number, the conditions of advertisement as well as PPR would be violated. The petitioner even did not disclose her credentials in the attestation-cum-verification form which was filed post selection process.

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

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 sub-rule (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.

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[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. In the case in hand, the advertisement specifically provides that selection shall be made in accordance with PPR (Rule 12.16 of PPR as amended). It further provides that if FIR is pending and charges are framed, a candidate shall not be eligible for application. The relevant clauses of the advertisement read as: -

“1.2 Procedure/Instructions/Guidelines for Online Filling of Application Form

Following are the general and special instructions for the applicant with respect to the online filling of the application form”

- a. to h. XXXX XXXX XXXX XXXX
- i. *The Selection shall be made in accordance with the Punjab Police rules as applicable to Haryana (latest rule 12.16 of Punjab Police Rules amended up to date (Non Gazetted and other ranks) Service rule 2017 amended upto date.*
- j. *Candidates who do not fulfill the qualifications/eligibility conditions on cutoff date, their application shall not be accepted by the online application system. All the Certificates relating to educational qualification/eligibility conditions and Socio-Economic Criteria etc. will be determined with regard to last date fixed to apply online applications also called as closing date i.e. 10-02-2021 as given in the advertisement. No certificate issued after cutoff date shall be considered.*
- k. *The Commission does not scrutinize the documents and same are checked only at the time of Scrutiny.*
- l. *If an FIR is lodged/is pending against a candidate, he/she shall not be treated eligible for application, if charges are framed against him/her.”*

[Emphasis Supplied]



From the perusal of the terms and conditions of the advertisement, it is evident that conditions with respect to disclosure of pending criminal proceedings are reiteration of PPR.

10. In the case in hand, the petitioner was facing trial at the time of filing application. Charges had already been framed. As per PPR, she was ineligible to apply, nevertheless, she applied for the post of Constable. She was further duty bound to disclose factum of pending trial in the verification-cum-attestation form. There was no column in the application form, however, there was a specific column in the verification-cum-attestation form. The petitioner was well aware of pending trial still she opted to suppress this fact while filing verification-cum-attestation form. The act of the petitioner amounted to suppression of material facts.

11. The petitioner is relying upon judgement of the Supreme Court in *Ravindra Kumar (supra)*, wherein the Supreme Court 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 office, 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.”

In the present case, the petitioner belongs to Scheduled Caste Category and she was 22 years old at the time of commission of alleged offence. The FIR has been set aside by this Court on the basis of compromise. She was not named in the FIR, however she was implicated in the Challan and charges were framed by the Trial Court. These factors vindicate claim of the petitioner, however, this Court cannot ignore statutory provisions i.e. Rule 12.16 & Rule 12.18 of PPR as well as terms and conditions of the advertisement. The petitioner was not embroiled in an offence involving moral turpitude, however, she opted to conceal factum of pending criminal proceedings in the verification-cum-attestation form. Rule 12.18 clearly provides that non-disclosure of pending FIR in the verification-cum-attestation form shall lead to disqualification of the candidature outrightly. Rule 12.16 categorically mandates that a candidate shall not be eligible for application if FIR is pending against him and charges stand framed. It means a candidate is ineligible even to apply against whom charges are framed by Trial Court. The petitioner filed application in 2021 and charges were framed against her in 2019, thus, as per Rule 12.16(4) she was ineligible to apply. If this Court directs respondent to issue her appointment letter, it would amount to violence to Rule 12.16(4) as well as Rule 12.18(2) of PPR. A candidate who was ineligible even to apply would be selected. Compassion and sympathy cannot substitute the law. Had the petitioner disclosed pendency of criminal proceedings in the verification-cum-attestation form, the situation could be little different. The petitioner

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was ineligible to apply and she further suppressed material information in the verification-cum-attestation form, thus, does not deserve post of Constable.

12. In the wake of above discussion and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

25.03.2025*Mohit Kumar*

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