



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

**CWP-7236-2017 (O & M)**  
**Date of Decision: 14.05.2025**

Harjinder Pal

.....Petitioner

Versus

State of Punjab and another

....Respondents

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

Present: Ms. Alka Chatrath, Advocate,  
Mr. Nikhil Singh and Ms. Dhamanpreet Kaur, Advocates,  
for the applicant-petitioner.

Mr. Aman Dhir, DAG, Punjab.

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

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking direction to respondent to issue him appointment letter for the post of Constable.
2. The petitioner pursuant to Advertisement No.1/2016 dated 31.05.2016 applied for the post of Constable. The respondent invited applications for 7416 posts of Male/Female Constables. He applied under BC category. He qualified physical measurement test and physical screening test. He was placed in the merit list published on 02.01.2017. The respondent conducted verification of his credentials and found that a criminal case is pending against him. On the said account, he was not allowed to join.



3. Ms. Alka Chatrath, learned counsel for the petitioner submits that petitioner was embroiled in FIR No.153 dated 08.08.2013 under Sections 325, 324, 323, 148, 149 IPC registered at P.S. Sadar Jalalabad, District Fazilka. He was innocent and falsely implicated. The police conducted inquiry and found him innocent. Challan was presented on 30.12.2013 and he was shown in Column No.2. The State filed application under Section 319 Cr.P.C. seeking summoning of petitioner as an additional accused. The application was filed on 29.11.2014 and it came to be allowed on 18.04.2016. The advertisement was issued on 31.05.2016 and last date for filing application was 21.06.2016. The Trial Court summoned him prior to filing application form, however, he was not served summoning order. Thus, he in the application form did not disclose factum of FIR. This was a small mistake on his part. The respondent with respect to selection process of 2021 has accepted candidature of many candidates who had not disclosed factum of pending FIR. On the ground of parity, petitioner deserves to be considered. Supreme Court in *Avtar Singh vs. UOI and others, (2016) 8 SCC 471* and *Ravindra Kumar vs. State of U.P. and others, (2024) 5 SCC 264* has held that candidature should not be rejected on the ground of non-disclosure of FIR if candidate has been acquitted and he is not involved in a serious offence. Similar view has been expressed by Supreme Court in *Ram Lal vs. State of Rajasthan, 2023 SCC OnLine SC 1618*.

4. *Per contra*, Mr. Aman Dhir, DAG, Punjab submits that petitioner was well aware of registration of FIR against him. There was a specific column in the application form with respect to FIR. The petitioner intentionally concealed material fact of FIR. If claim of petitioner is



accepted, it would amount to violating terms and conditions of the advertisement. A Division Bench of this Court in *LPA-1706-2019* titled as *Rajbeer Singh vs. State of Punjab*, decided on 03.10.2024 with respect to same advertisement had rejected claim of a candidate on the ground of concealment of information of FIR.

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

6. The conceded position emerging from record is that the petitioner was implicated in FIR No.153 dated 08.08.2013. Police filed challan on 30.12.2013 wherein petitioner was shown in Column No.2. State filed application under Section 319 Cr.P.C. before Trial Court seeking summoning of petitioner as an additional accused. The application was filed on 29.11.2014 and it was allowed on 18.04.2016. The advertisement was issued on 31.05.2016 and last date for filing application was 21.06.2016. The petitioner in the application form did not disclose particulars of FIR. He opted “no” *qua* particular column. The FIR was registered under Sections 325, 324, 323, 148, 149 IPC.

7. Clause 20(xiii) of the advertisement provides that application form will be liable to be rejected:

- a. If the Application Form is incomplete;
- b. If it has been found to have been submitted without the requisite Application fees;
- c. If found without the supporting documents, and/or photograph and/or signatures;
- d. If it is found to be without the mandatory declarations.



8. Clause 21 of the advertisement provides that recruitment process shall be absolutely provisional and shall be subject to mandatory clearances. Clause 21 of the advertisement reads as under:-

*“21. PROVISIONAL SELECTION*

*The selection in the Recruitment Process shall be absolutely provisional, and it shall be subject to the following mandatory clearances:*

- (a) Medical Examination,*
- (b) character and antecedent verification, and*
- (c) Verification of his/her educational qualification Certificates from the concerned Boards/Universities.”*

9. Clause 23 of the advertisement provides that there would be verification of character and antecedents of all the candidates. Selection of the candidate shall be subject to verification of his antecedents and if anything adverse is found against the candidate during verification, his candidature shall be summarily rejected and no claim shall be entertained. Clause 23 of the advertisement is reproduced as below:-

*“23. VERIFICATION OF CHARACTER AND ANTECEDENTS*

*The verification of character and antecedents of all candidates who figure in the Selection List shall be undertaken as laid down in the Punjab Police Act 2007, Punjab Police Rules 1934 and other relevant Rules and Govt. instructions in this regard by following the prescribed procedures, through the concerned authorities. The selection of the candidate shall be subject to the verification of his antecedents, and if anything adverse is found against the candidate during the verification, his/her candidature shall be summarily rejected and no claim, whatsoever, shall be entertained in this regard thereafter.”*



10. The relevant columns of the application form filed by petitioner are reproduced as below:-

<i>Driving experience:</i>	<i>No</i>
<i>Swimming experience:</i>	<i>No</i>
<i>Other skills:</i>	<i>No</i>
<i>Whether any FIR or Criminal case(S) has ever been registered against you?</i>	<i>No</i>
<i>Have you ever been arrested/detained in any criminal case(s)</i>	<i>No</i>
<i>Have you ever been tried &amp; convicted or acquitted by a Court of law in any criminal case(s)?</i>	<i>No</i>
<i>Have you ever had to execute any bond for keeping peace/good behavior under security proceeding of CrPC?.</i>	<i>No</i>
<i>Have you ever been proceeded against by any School/College/University/Board in case of Unfair Means (UMC) or any charges</i>	<i>No</i>
<i>Are you facing any Criminal Proceedings in any Court of Law in India?:</i>	<i>No</i>

11. From the perusal of application form of the petitioner, it is quite evident that he has declared “no” with respect to Column ‘any FIR ever being registered against him’. With respect to any criminal proceeding also he has opted for “no”.

12. A three-Judge Bench of Supreme Court in ***Avtar Singh vs. Union of India, (2016) 8 SCC, 471*** has adverted with question of appointment of a candidate who was/is involved in a criminal case. The Court after noticing plethora of judgments has culled out legal position as below:

*“38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:*

*38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and*



*there should be no suppression or false mention of required information.*

*38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.*

*38.3. The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.*

*38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted:*

*38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.*

*38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.*

*38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.*

*38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the*



*right to consider antecedents, and cannot be compelled to appoint the candidate.*

*38.6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.*

*38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.*

*38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.*

*38.9. In case the employee is confirmed in service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.*

*38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.*

*38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.”*

*(emphasis supplied)*



13. A two-judge Bench of Supreme Court in ***Satish Chandra Yadav vs. Union of India and Ors., 2023 (7) SCC 536*** has adverted to the question of appointment of a candidate against whom criminal case is pending/or was instituted. The Court has laid down guidelines as below :

*“93. In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:*

*93.1. Each case should be scrutinised thoroughly by the public employer concerned, through its designated officials — more so, in the case of recruitment for the Police Force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security. (See Raj Kumar [State v. Raj Kumar, (2021) 8 SCC 347 : (2021) 2 SCC (L&S) 745])*

*93.2. Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for appointment to the post.*

*93.3. The suppression of material information and making a false statement in the verification form relating to arrest, prosecution, conviction, etc. has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.*



*93.4. The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided.*

*93.5. The Court should inquire whether the authority concerned whose action is being challenged acted mala fide.*

*93.6. Is there any element of bias in the decision of the authority?*

*93.7. Whether the procedure of inquiry adopted by the authority concerned was fair and reasonable?*

*(emphasis supplied)”*

14. The Supreme Court in ***State of Madhya Pradesh and others vs. Bhupendra Yadav, 2023 SCC Online SC 1181*** while dealing with similar controversy had held :

*“24. The aforesaid aspects were rightly factored in by the appellant - State Government while issuing the communication dated 24th August, 20178 and declaring that the respondent was unfit for appointment to the said post. The yardstick to be applied in cases where the appointment sought relates to a Law Enforcement Agency, ought to be much more stringent than those applied to a routine vacancy. One must be mindful of the fact that once appointed to such a post, a responsibility would be cast on the respondent of maintaining law and order in the society, enforcing the law, dealing with arms and ammunitions, apprehending suspected criminals and protecting the life and property of the public at large. Therefore, the standard of rectitude to be applied to any person seeking appointment in a Law Enforcement Agency must always be higher and more rigorous for the simple reason that possession of a higher moral*



*conduct is one of the basic requirements for appointment to a post as sensitive as that in the police service.”*

15. Supreme Court in ***Ram Lal vs. State of Rajasthan, 2023 SCC Online SC 1618*** has held that Courts are supposed to look into the judgment of acquittal while adjudicating departmental proceedings. The relevant extracts of the judgment read as :

*“28. Expressions like “benefit of doubt” and “honorably acquitted”, used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Exh. P-3, the original marksheet carries the date of birth as 21.04.1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.”*

16. In the case in hand, the petitioner concededly, did not disclose criminal antecedents in the application form. The claim of the petitioner is that he has been acquitted in FIR under Sections 323, 325 and 452 of IPC, thus, non-declaration of antecedents can be condoned. It is not case of the petitioner that he was unaware of his antecedents. He was very much aware of the case registered against him. He might be aware of summoning order. The petitioner as per his wisdom decided not to disclose FIR registered against him. It is apt to notice that petitioner was acquitted in FIR No.153 dated 08.08.2013 vide judgment dated 12.11.2018 i.e. after completion of selection process.



17. The Apex Court in *Avtar Singh (supra)* in Paragraph No.38.5 has held that where an employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents and cannot be compelled to appoint the candidate. In Paragraph No.38.7, it has been held that in case of deliberate suppression of fact, an employer may pass appropriate order cancelling candidature or terminating services. The similar observation has been made by Supreme Court in *Satish Chandra Yadav (supra)*. Case of the petitioner is squarely covered by aforesaid judgments. Had the petitioner disclosed his antecedents, this Court could consider nature of criminal cases or their status, however, the petitioner as per his wisdom had decided not to disclose his antecedents. The act of the petitioner comes in the teeth of affirmative findings in afore-cited judgments of the Apex Court.

18. There is another aspect of the matter. The petitioner participated in the selection process which was initiated in 2016 and completed in 2017. A period of 8 years has expired from the completion of selection process. The petitioner was not acquitted at the time of completion of selection process. At that stage, he was facing criminal proceedings because he was summoned by Trial Court under Section 319 Cr.P.C. The employer has right to consider credentials of a prospective employee. It has right to reject candidature if it finds that candidate is already facing trial. The situation could be different had petitioner been acquitted at the time of filing application or verification of credentials whereas petitioner did not disclose factum of FIR in application form and he was facing trial at the time of completion of selection process.



19. The petitioner was not facing charge of commission of minor offence. He was facing charge of commission of offence punishable under Sections 325 and 452 IPC. He has been acquitted because witnesses turned hostile. A Division Bench of this Court with respect to same advertisement has rejected claim of a candidate who did not disclose factum of pending FIR. Petitioner's case is squarely covered by said judgment.

20. In the wake of above discussion & findings and following the judgments of Apex Court in *Avtar Singh (supra)* and *Satish Chandra Yadav (supra)*, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

14.05.2025  
shivani

(JAGMOHAN BANSAL)  
JUDGE

Whether reasoned/speaking  
Whether reportable

Yes  
Yes