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

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Date of Decision: 02.04.2025

Dheeraj

...Petitioner

**Versus**

State of Punjab and others

...Respondents

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

Present: - Mr. Ankur Sidhar, Advocate for the petitioner

Ms. Rajni Gupta, Additional Advocate General, Haryana

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

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking direction to the respondent to allow him to join on the post of Constable with all consequential benefits.

2. The petitioner, pursuant to advertisement No.6/2024, applied for the post of Constable vide application dated 05.03.2021. He applied under Backward Caste-B Category and participated in the Common Eligibility Test as per prescribed procedure. As he cleared written test and his name figured in the list of qualified candidates, he was permitted to participate in the second stage exam which was held in 2024. The final result was declared in 2024 and name of petitioner figured in the final result. He cleared Physical Measurement Test as well as Physical Scrutiny Test. His name was finally recommended for the post of Constable. He appeared before the competent authority and disclosed that an FIR No.667 dated 27.10.2022



(Annexure P-2) under Section 420 of Indian Penal Code, 1860 (for short 'IPC') has been registered against him at Police Station Vivek Vihar, Shahdara, Delhi. The respondent on account of aforesaid FIR has not issued him joining letter.

3. Mr. Ankur Sidhar, Advocate submits that petitioner *bona fide* and honestly disclosed pending FIR before the Authorities. The FIR was registered in 2022 whereas application form was filed in 2021, thus, there was no question of disclosure of FIR. The petitioner cleared all the tests and his name was recommended by competent authority. Director General of Police, Haryana, vide order dated 18.10.2024 (Annexure P-8) directed different authorities to issue appointment letters to candidates subject to pending verification of character & antecedents, medical certificate of fitness and biometric/facial verification attendance. The petitioner was never asked to submit Form 12.18 and he voluntarily disclosed pending FIR. The police has filed challan under Section 173 of Code of Criminal Procedure, 1973, however, charges have not been framed, thus, his case is squarely covered by Rule 12.18(3)(b)&(c) of Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR'). As charges are not framed, the petitioner cannot be denied appointment letter. In any case, he has been embroiled in the FIR under Section 420 IPC alleging cheating in the exam. The said offence does not involve moral turpitude, thus, even if he is held guilty of the alleged offence, he cannot be denied appointment letter. In support of his contentions, he relies upon Division Bench judgment of this Court in *Ramnik Kumar and another v. State of Haryana and others*, 2008 SCC OnLine P&H 1375 and judgment of Jammu and Kashmir High



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Court in *Amjid Hussain Khan v. State of J&K and others, 2023 SCC OnLine J&K 206.*

4. Notice of motion.

5. Ms. Rajni Gupta, Additional Advocate General, Haryana, who on advance notice is present in Court, accepts notice on behalf of respondent-State.

6. With the consent of both sides, the matter is taken up for final adjudication.

7. *Per contra*, learned State counsel submits that it is factually correct that at the time of filing application form, the petitioner was not involved in any FIR. It was registered during the pendency of selection process which was concluded in 2024. The petitioner himself disclosed factum of pending FIR after declaration of his result and authorities considering Rule 12.18(3) of PPR has not issued appointment letter. The challan has already been filed. He is involved in an offence punishable under Section 420 IPC where prescribed maximum sentence is more than three years.

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

9. The entire controversy involved in the instant case is centered around reading of Rules 12.16(4) and 12.18 of PPR. For the ready reference, Rules 12.16(4) and 12.18 are reproduced as below: -

***“Rule 12.16 Procedure for direct recruitment:-***

(1) XXXX XXXX XXXX XXXX



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(2) XXXX XXXX XXXX XXXX

(3) XXXX 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.”*

**“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]

10. From perusal of aforesaid Rules, it is evident that if an FIR is lodged against a candidate and charges are framed against him, he shall be ineligible for application, meaning thereby, candidate is eligible to apply despite lodging of FIR if charges are not framed. The fundamental difference between Rule 12.16 and 12.18 is that Rule 12.16 provides for eligibility to apply and Rule 12.18 provides for appointment letter. The petitioner was not facing FIR at the time of filing application, thus, he was eligible to apply.



11. As per Rule 12.18(2) of PPR, if factum of pending criminal case is not disclosed in the application form or verification-cum-attestation form, candidate is disqualified outrightly. If factum of pending FIR is disclosed in the application form as well as verification-cum-attestation form, the competent authority has to decide fate of the candidate in terms of five different clauses of Rule 12.18(3) of PPR. As per clause (b) of Sub-Rule (3), a candidate shall not be considered for appointment if charges have already been framed against him for an offence involving moral turpitude or for an offence which is punishable for imprisonment of three years or more.

12. As conceded by learned State counsel, clauses (a), (d) and (e) of Sub-Rule (3) are inapplicable to the instant case. The petitioner is involved in an offence where punishment prescribed is more than three years, however, till date charges have not been framed, thus, clause (b) of Sub-Rule (3) is also inapplicable. Clause (c) is applicable where FIR is registered, however, police has filed cancellation report or untraced report or State Government has withdrawn the case or he has been acquitted by the Trial Court. In such circumstances, candidate is considered for appointment.

13. In the instant case, police has filed challan and the matter is pending at the stage of framing charge. If charges are not framed against the petitioner, he would certainly be eligible for appointment because in that situation his case would switch over to clause (b) of Sub-Rule (3), but at present his case falls under clause (c). The language of clause (c) is in positive form. If the said clause is applied to instant case, the petitioner would be squarely covered by this clause because neither police has filed cancellation report nor State Government had withdrawn the case nor the petitioner has been acquitted by the Trial Court. Till the consideration of

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issue of framing charge, he is covered by clause (c) which does not permit the State Government to issue appointment letter. Judgments cited by petitioner are inapplicable to his case. Facts and issues involved in those cases were different from present case.

14. This Court is of the considered opinion that till the consideration of question of charge by the Trial Court, case of the petitioner falls under clause (c) of Rule 12.18(3) of PPR, thus, State Government cannot be directed to issue appointment letter.

15. In the wake of above discussion and findings, this Court has reached to the conclusion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

16. The petitioner is at liberty to move an appropriate application before the Authorities if charges are not framed against him in the aforesaid offence.

**(JAGMOHAN BANSAL)**  
**JUDGE**

**02.04.2025***Mohit Kumar*

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