

**226-3****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH************CWP-5996-2019 (O&M)
Date of Decision: 02.02.2026****Ravinder****...Petitioner****Versus****State of Haryana and Others****...Respondents****CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

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

Mr. Akshit Pathania, AAG, Haryana.

**********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 08.12.2017 whereby his appointment has been cancelled under Rule 12.18(4) of Punjab Police Rules, 1934 as made applicable to State of Haryana (in short 'PPR').

2. The petitioner pursuant to Advertisement No. 08/2015 applied for the post of Constable. He successfully cleared written test followed by physical measurement and screening test. He on 24.06.2017 as per Rule 12.18 of PPR filed verification-cum-attestation form. The respondent during verification of his credentials found that an FIR No. 91 dated 29.09.2013 under Sections 420/120 IPC at P.S. East Shimla was registered against him. Police filed cancellation report which was duly accepted by trial court vide order dated 26.09.2014. The respondent constituted a committee to consider his suitability. The said committee

recommended his name and he was issued an appointment letter dated 13.07.2017. The respondent by impugned order dated 08.12.2017 has cancelled his candidature on account of non-disclosure of aforesaid FIR in attestation form.

3. Learned Counsel for the petitioner submits that aforesaid FIR was lodged against the petitioner along with other accused. The police after investigation filed cancellation report which was duly accepted by the trial Court on 26.09.2014. The advertisement was issued in 2015. He did not disclose factum of aforesaid FIR in the attestation form because there was no such column. FIR stood cancelled at the time of filing application form. A committee constituted by the department after noting the verification report issued him appointment letter. There was no concealment of facts on his part. The 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 ***Pawan Kumar v. Union of India and Anr., (2022) SCC OnLine SC 532***, 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. The petitioner belongs to poor strata of the society and was not involved in a serious crime or crime involving moral turpitude. Court may take lenient view. Denial of job would be great injustice and prejudice to him.

4. *Per contra*, learned State Counsel submits that petitioner did not disclose factum of FIR in attestation form. Mandate of Rule 12.18 of

PPR is unambiguous. It clearly provides that appointment shall outrightly be cancelled if candidate does not disclose factum of FIR in the attestation form. The petitioner did not disclose aforesaid FIR in the attestation form. Thus, there was no question to retain him in service. His appointment was liable to be cancelled on account of concealment of material fact.

5. Heard the arguments and perused the record.
6. The petitioner was implicated in FIR dated 29.09.2013 under Section 420/120 IPC. Police filed cancellation report which was accepted by trial court vide order dated 26.09.2014. Said order reads as:

“The complainant vide his statement dated 29.09.2013 has stated that he at the relevant time was Principal in Government, Senior Secondary School Portmore. He is satisfied with the cancellation report and has no objection thereto.

Heard. Record perused.

As per the case of the prosecution, the accused on 29.09.2013 at Government, Senior Secondary School Portmore were found copying during the examination with the help of Mobile gadget. On conclusion of the investigation, the police presented the cancellation report.

Ld. APP also gave legal opinion that the police report was justified.

I have also gone through the case file and I am of the view that no case is made out against the accused and cancellation report has rightly been prepared.

Therefore, the cancellation report is accepted and FIR No. 91/13 is ordered to be cancelled. Copy of this order be sent to the office of Superintendent of Police Shimla while court file be retained and be tagged with the concerned case FIR for record.”

7. The petitioner pursuant to advertisement applied for the post of Constable. He was duly selected by recruitment board. He filed attestation-cum-verification form on 24.06.2017. Relevant column of the attestation form reads as:

13 (I)		
(a)	<i>Have you ever been arrested?</i>	Yes/No
(b)	<i>Have you ever been kept under detention?</i>	Yes/No
(c)	<i>Have you ever been prosecuted?</i>	Yes/No
(d)	<i>Have you ever been bound down?</i>	Yes/No
(e)	<i>Have you ever been fined by a court of Law?</i>	Yes/No
(f)	<i>Have you ever been convicted by a court of Law?</i>	Yes/No
(g)	<i>Have you ever been debarred from any examination or rusticated by any University of any other educational Authority/institution?</i>	Yes/No
(h)	<i>Have you ever been debarred/dis-qualified by any Public Services Commission/staff Section Commission for any of its examination/selection?</i>	Yes/No
(i)	<i>Is any case pending against you in court of Law or with Police at the time of filing of this attestation form?</i>	Yes/No
(j)	<i>Is any case pending against you in any University or any other educational authority/institution at the time of filling up this attestation form?</i>	Yes/No
(k)	<i>Have you ever been discharged or removed from any job?</i>	Yes/No
(l)	<i>Have you ever been court martialled under Army Act (For Ex-servicemen only)</i>	Yes/No

8. The respondent after conducting police verification constituted a committee of officers which opined in favour of petitioner. The respondent issued appointment letter dated 13.07.2017. The petitioner joined service and his appointment vide impugned order was cancelled. The impugned order has been passed on the sole ground that

petitioner did not disclose factum of FIR in attestation form. Relevant extracts of the impugned order read as:

"It is ordered that you recruit Constable Ravinder, No. 2/185 of this battalion is hereby discharged from service with immediate effect under 12:21 of Punjab Police Rules-1934 since you have violated rule 12.18 (4) of Punjab Police (Haryana Amendment) Rules-2015, which reads as "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 be ordered to be recovered", since it is found you have not disclosed the facts about the registration of a Criminal Case against you in verification-cum-attestation form."

9. 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) to (3) XXXX XXXXXXXXX

(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.”

From the above quoted Rule, it can be gleaned that an applicant is ineligible even to apply if an FIR is lodged against him and charges are framed against him. Meaning thereby, if FIR is lodged but charges are not framed, he is eligible to apply.

10. The impugned order as well as written statement is based upon reading of Rule 12.18 of PPR, thus, it is inevitable to examine whether said rule was violated by petitioner entailing cancellation of his appointment. Rule 12.18 reads as:

“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 be ordered to be recovered."

11. 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. It is irrelevant that he was acquitted prior to filing attestation form. The respondent pursuant to Rule 12.18 has

prepared different columns in the attestation form. Column No. 13 deals with criminal cases pending against the candidate. There is no sub-column mandating the candidates to disclose status of an FIR which has already been cancelled. Column No. 13(I)(a) is applicable in case of arrest; (b) in case of prosecution; (c) in case of detention; (d) in case of bound down; (e) in case of fine imposed by Court; and (f) in case of conviction by Court; and Clause (i) in case, any case is pending in Court of law or with Police at the time of filing attestation form to pending criminal case. The petitioner was indubitably implicated in an FIR, however, police filed cancellation report prior to his date of filing application as well as attestation form. The trial court accepted cancellation report prior to filing attestation form. None of the column asked the petitioner to disclose cancelled FIR, thus, there was no occasion for him to disclose cancelled FIR. As per respondent, the petitioner was prosecuted. The Investigating Agency filed cancellation report which was accepted by trial Court, thus, it is incorrect to allege that petitioner was prosecuted. Prosecution commences at the most from the date of taking cognizance by Court. In such circumstances, it is difficult to hold that petitioner was guilty of concealment of fact and his appointment could be cancelled under rule 12.18(4) of PPR.

12. The matter needs to be further examined in the light of rule 12.18(3). Rule 12.18(3) 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 charge(s). He may be acquitted or discharged or convicted. A deep perusal of different clauses of Rule 12.18(3) of PPR reveals 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) deals 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.

In the case in hand, investigating agency filed cancellation report which was accepted by trial Court even before the date of filing application form leaving aside attestation form. Thus, petitioner's case is squarely covered by clause (c) as well as (d) and as per clause (d) appointment cannot be denied if cancellation report stands accepted by trial Court.

13. A three-Judge Bench of Hon'ble Supreme Court in *Avtar Singh (supra)* has adverted to question of appointment of a candidate who was/is involved in a criminal case. The Court after noticing a 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.”

[Emphasis Supplied]

14. The Supreme Court in ***Ram Lal vs. State of Rajasthan, 2023***

SCC Online SC 1618 has held that Courts are supposed to examine 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 marksheets 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.”

15. The Supreme Court in ***Ravindra Kumar (supra)*** has held that nature of office, 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.”

16. As per judgment of Supreme Court in ***Avtar Singh (supra)*** as well as ***Pawan Kumar (supra)*** mere suppression of information in a given case does not mean that employer can arbitrarily reject claim of the candidate. The authorities are bound to judiciously examine claim of the candidate. In the present case, the petitioner was 21 years old at the time of commission of alleged offence. He was neither arrested nor made to face trial. Police registered FIR and thereafter filed cancellation report.

He was not involved in any other offence. Cancellation report was filed and accepted even prior to his filing application form. The alleged offence is not a serious offence as per clause (e) of Rule 12.18(3) of PPR. The respondent after police verification constituted a committee which decided to issue him appointment letter. He was issued appointment letter which was cancelled after 5 months. His case is positively covered by afore-cited judgments of Supreme Court.

17. In the wake of above discussion and findings, this Court is of the considered opinion that petition deserves to be allowed and is accordingly allowed. The impugned order is hereby set aside. The respondents are directed to permit the petitioner to rejoin within a period of four weeks from today. It is hereby clarified that period during which petitioner remained out of service shall not be counted for service benefits.

18. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

02.02.2026

Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No