

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

CWP No. 15498 of 2011

Date of Decision : May 08, 2012

Jitender

.... **PETITIONER**

Vs.

State of Haryana and others

..... **RESPONDENTS**

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI**

Present : Mr. Jagbir Malik, Advocate,  
for the petitioner.

Mr. Sunil Nehra, Sr. DAG, Haryana.

**AUGUSTINE GEORGE MASI, J. (ORAL)**

Petitioner has approached this Court claiming appointment to the post of Constable in the Police Department, Haryana, on the ground that the denial of appointment to the petitioner on the basis of registration of an FIR against the petitioner is not in accordance with law. Counsel for the petitioner contends that in FIR No. 75 dated 03.07.2007 registered under Sections 148/149/323/325/307 IPC, Police Station Sahlawas, petitioner stands exonerated of the charges levelled against him vide judgment dated

21.03.2011 (Annexure P-3). He contends that the petitioner is not covered under the Instructions dated 13.11.2007 (Annexure R-1) issued by the Director General of Police, Haryana under Rule 12.18 of the Punjab Police Rules, 1934, as applicable to the State of Haryana. He, on this basis, contends that the petitioner is entitled to appointment to the post of a Constable and, therefore, prays that the present writ petition be allowed.

On the other hand, counsel for the respondents submits that the petitioner was involved in a criminal case, in which one of the Sections i.e. Section 307 IPC is covered under the category of offences involving 'Moral Turpitude'. Since the petitioner is involved in a criminal case, which reflects upon his character, therefore, he is not entitled to appointment to the post of Constable. His further contention is that the petitioner has been acquitted by the trial Court vide order dated 21.03.2011 by granting him the benefit of doubt, which would go against the petitioner and his claim cannot be granted as his acquittal is not a clear acquittal and in view of Instructions R-1, the petitioner has rightly been denied appointment as a Constable and, therefore, prays for dismissal of the writ petition.

I have heard the counsel for the parties and have gone through the records of the case.

It is not in dispute that the petitioner, in response to an advertisement issued by the respondents, applied for the post of Constable under Ex-serviceman BCB Category. He was selected for

appointment to the said post and was ranked No. 1 but prior to the declaration of the result, FIR No. 75 dated 03.07.2007 was registered against the petitioner. The petitioner was denied appointment on that basis. In the trial, he was exonerated of the charges levelled against him vide judgment dated 21.03.2011 by the learned Additional Sessions Judge, Jhajjar. Although it has been stated that the benefit of doubt has been given to the petitioner but thereafter, it has been specifically mentioned that he is exonerated of the charges levelled against him. This clearly depicts acquittal of the petitioner and co-accused as honorable and, therefore, the Instructions relied upon by the respondents dated 13.11.2007 (Annexure R-1) would not apply to the case of the petitioner. Although an offence under Section 307 IPC, which involves moral turpitude, is alleged to have been committed but a perusal of the judgment of the trial Court indicates that the injury, which was attributed to the petitioner, was only on the ankle to one of the injured who stated before the Court that the petitioner had not given any injury to him. Keeping in view the clear acquittal of the petitioner, reliance of the respondents on the Instructions dated 13.11.2007 issued by the Director General of Police (Annexure R-1) cannot be accepted.

In view of the above, the present writ petition is allowed.

Petitioner is directed to be appointed as a Constable and Constabulary Number be allotted to the petitioner within a period of

one month from the date of receipt of certified copy of this order. Petitioner shall not be entitled to any monetary benefits but shall be entitled to all other consequential benefits w.e.f. 04.09.2007, the date on which persons lower in merit to the petitioner were appointed as Constables.

**May 08, 2012**  
pj

**(AUGUSTINE GEORGE MASIH )**  
**JUDGE**



सत्यमेव जयते

