

(2012) 05 P&H CK 0044
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 9334 of 2012

Hari Parsad

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 17-05-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 325, 34

Citation : (2012) 168 PLR 488

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Rakesh Nehra, for the Appellant;

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioner has approached this Court praying for issuance of a writ of certiorari for quashing the order of his termination dated 24.10.1998 (Annexure P-2), which was passed on the ground that the petitioner had not disclosed the fact of registration of an FIR against him on the date he was appointed and for non-disclosure of correct information, his services have been terminated. Petitioner was appointed as a Constable/Driver in CRPF on 06.09.1994. An FIR No. 231 under Sections 323, 325, 34 IPC, Police Station Bahadurgarh, District Jhajjar dated 31.08.1994, was registered against the petitioner along with two others. While submitting his character certificate form, he did not disclose the details about the registration of the FIR against him. In pursuance to this, respondents proceeded to verify the character antecedents of the petitioner. It is at this stage that it came to the notice of the respondents that an FIR stands registered against the petitioner. Accordingly, a charge-sheet was issued to him, which was followed by a response submitted by him, which was found to be not satisfactory leading to the holding of a regular departmental enquiry against him. The Enquiry Officer, after giving the petitioner due opportunities, returned findings against him holding him guilty of not disclosing the true facts at the time of his joining duty with regard to the pendency of the

FIR against him. On exercising the powers, the punishing authority issued a show cause notice to the petitioner, to which the petitioner responded. The same was taken into consideration by the punishing authority but the punishing authority did not agree with the contentions raised by the petitioner leading to the passing of the order of termination of the petitioner dated 24.10.1998. Petitioner preferred an appeal against the order of termination, which is pending consideration with the respondents. Petitioner was called by the Deputy Inspector General of Police, CRPF, Ajmer, vide order dated 04.01.1999 for personal hearing, to which the petitioner contends that he responded and he was advised that till the acquittal of the petitioner in the FIR, no further action can be taken in the appeal. In the FIR, which was registered against the petitioner, petitioner was convicted by the trial Court vide order dated 18.03.1999. Against the said order of conviction, an appeal was preferred by the petitioner before the Sessions Judge, Jhajjar, which was not accepted and the same was dismissed on 17.01.2003. Against the said order passed by the Sessions Judge, petitioner preferred Criminal Revision No. 302 of 2003 titled as Hari Parsad and others v. State of Haryana. The said revision was finally decided by this Court vide order dated 11.05.2010, where, on the basis of a compromise, which has been entered into between the parties dated 11.03.2010, the Court proceeded to set aside the conviction and sentence of the petitioner and acquitted the accused of the charges. It is after this acquittal by this Court that the petitioner again filed a representation dated 12.11.2010 to the Deputy Inspector General of Police, CRPF, Ajmer (Annexure P-7) requesting the respondents to take up his appeal and decide the same. A reminder dated 21.04.2011 (Annexure P-8) was sent but without any response. It is at this stage that the petitioner has approached this Court by way of the present writ petition.

2. Counsel for the petitioner contends that the petitioner, in the light of his acquittal by this Court, is entitled to be reinstated in service and the order of termination of the petitioner from service deserves to be set aside. His further contention is that the FIR was got registered against the petitioner and his other family members because of an enmity between the other members of the family. It has been contended by the counsel for the petitioner that the petitioner was not in the village at that time and he has participated in the selection process of the CRPF. He, accordingly, contends that the FIR registered against the petitioner cannot be made the basis for terminating the services of the petitioner as he, at the time when he joined the service, was not aware of the registration of the FIR against him. His further contention is that the statutory appeal preferred by the petitioner is still pending consideration and a direction be issued to the respondents to decide the same. Reliance has been placed on the judgment of the Supreme Court in Civil Appeal No. (s) 1430 of 2007 titled as Commissioner of Police and others v. Sandeep Kumar, decided on 17.03.2011, wherein the Hon"ble Supreme Court has submitted that it could be a situation where probably the person, who had sought appointment, out of fear did not inform the respondents about the registration of the FIR against him and that would not

automatically disqualify him for appointment to the post. Reference has also been made with regard to strenuous efforts to be taken by the society to bring home the young people back to the main stream. Accordingly, he prays that the impugned order of termination of services of the petitioner deserves to be set aside.

3. I have heard the counsel for the petitioner and have gone through the records of the case. As is apparent from the records, an FIR was registered against the petitioner on 31.08.1994. Petitioner joined service as Constable/Driver on 06.09.1994. It is difficult to accept that the petitioner was not aware of the fact that an FIR stands registered against him when the said FIR was not registered only against him but also against two others of his family members and at the behest of his own relatives and that too, in the village. However, the stand of the petitioner with regard to he being not available in the village at the time when the offence is alleged to have been committed and the incident took place, has not been accepted by the trial Court as well as the Appellate Court. The acquittal, which has accrued in favour of the petitioner, is not on merits by the High Court but is primarily based upon a compromise, which has been entered into between the parties and that too, on 11.03.2010 during the pendency of the revision petition. The factum that the petitioner was in the village at the time of commission of offence still holds. In any case, the order of termination of the petitioner dated 24.10.1998 was fully justified and today also, it holds good. The petitioner did not disclose the factum of registration of FIR prior to his joining the service while submitting his form when he took up the assignment with the respondents. Pendency of the appeal against the order of termination cannot be stretched to the extent of more than 12 years. Had the petitioner been aggrieved because of non-decision on the appeal preferred by him, he should have approached the competent authority at the appropriate time, which the petitioner failed to do. What has been asserted is that he was advised by the Appellate Authority that he should approach the Appellate Authority after the decision in his appeal or on his acquittal. This assertion of the counsel for the petitioner is difficult to accept as there is nothing on the record suggesting that. The judgment relied upon by the counsel for the petitioner cannot be pressed into service in the light of the fact that the claim, as made by the petitioner, is belated with no explanation as to the inordinate delay in approaching the Court by filing the present writ petition. In any case, the said relief as claimed by the petitioner and the reasoning assigned in the order passed by the Supreme Court cannot be, at this stage, put into effect by the Court for granting him any relief.

In view of the above, finding no merit in the present writ petition, the same stands dismissed.