
(2014) 12 P&H CK 0066
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 24697 of 2014 (O and M)

HC Rajender Singh

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 03-12-2014

Acts Referred:

Arms Act, 1959 — Section 25

Penal Code, 1860 (IPC) — Section 120-B 223 224 225 420

Citation : (2015) 178 PLR 472

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : R.N. Lohan, Advocate for the Appellant;

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.

1. Challenge in the present petition has been made to the orders dated 25.9.2012 (Annexure P-6), 19.1.2013 (Annexure P-7) and 31.12.2012 (Annexures P-10 and P-11), whereby the representations filed by the petitioner against adverse remarks recorded in his ACRs for the period from 1.4.2005 to 31.3.2006, 1.4.2007 to 3.8.2007 and 3.8.2007 to 31.3.2008, were dismissed. Learned counsel for the petitioner submitted that for the period from 1.4.2005 to 31.3.2006, certain adverse remarks were recorded in the ACR of the petitioner on the basis of fact that FIR No. 186 dated 8.7.2005, under Sections 223, 224, 225, 420, 467, 468, 471 and 120-B I.P.C. and Section 25 of the Arms Act, Police Station, Baldev Nagar, District Ambala was registered against the petitioner. Same was the position with reference to the ACRs for the period from 1.4.2007 to 31.3.2008. Learned counsel further submitted that in the FIR, on the basis of which adverse remarks were recorded in the ACRs of the petitioner, he was acquitted by Chief Judicial Magistrate, Ambala vide judgment dated 18.9.2010. Thereafter, the petitioner made representations dated 8.8.2012 (Annexure P-5) and 17.12.2012 (Annexures P-8 and P-9). The same have been rejected merely

on the ground of delay and laches. Once the petitioner had been acquitted in the case registered against him, adverse remarks recorded in the ACRs for the aforesaid period were required to be expunged, however, the representations have been dismissed only on account of delay, which is not legally tenable. He further submitted that if a criminal case had been registered against the petitioner, only the remarks in the ACR for the period, during which the criminal case was registered, could have been adverse and not for the period subsequent thereto.

2. After hearing learned counsel for the petitioner, I do not find any merit in the submissions made. It is not in dispute that FIR was registered against the petitioner under Sections 223, 224, 225, 420, 467, 468, 471 and 120-B I.P.C. and Section 25 of the Arms Act. The adverse remarks for the period from 1.4.2005 to 31.3.2006 were conveyed to the petitioner vide memo dated 6.8.2007 (Annexure P-1). Similarly, the adverse remarks for the period from 1.4.2007 to 3.8.2007 and 3.8.2007 to 31.3.2008 were conveyed to him vide memos dated 1.7.2008 (Annexures P-2 and P-3). It is not in dispute that the petitioner did not make any representation against the aforesaid adverse remarks immediately after communication thereof. It is claimed that after he was acquitted in the criminal case on 18.9.2010, the representations were made. Those have been rejected by the competent authority while referring to the instructions of the Chief Secretary dated 14.8.1987, which provide that a representation against adverse remarks should be entertained, if filed within 45 days from the date of receipt of letter communicating the adverse remarks to the officer/official concerned. However, the competent authority had been given power to entertain a representation even upto a period of 3 months of the expiry of the aforesaid period in case the delay is satisfactorily explained. In the present case, the petitioner neither made the representation against the adverse remarks, when those were communicated to him way back in the years 2007 and 2008 nor after his acquittal on 18.9.2010. The representations were made on 8.8.2012 and 17.12.2012, hence, those have rightly been rejected on account of delay. As regards involvement of a candidate, who was applicant for the post of Constable with criminal antecedents, even though acquitted, Hon"ble the Supreme Court in Civil Appeal No. 10613 of 2014 - State of M.P. and others v. Parvez Khan, decided on 1.12.2014 opined that a person having criminal antecedents was not fit for entry into service. Even if he is acquitted or discharged, it cannot be presumed that he was completely exonerated. The contention of the petition that he having been acquitted, adverse remarks recorded in the ACRs on account of pendency of criminal case were required to be expunged is also misconceived.

Dismissed.