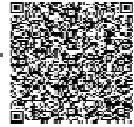




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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP No.12764 of 2025

Date of Decision: 06.05.2025

Vinod Kumar

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Atul Lakhanpal, Senior Advocate with
 Ms. Caral and Ms. Shikha Charak, Advocates
 for the petitioner.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The present writ petition assails the Rule 12.18(3)(b) of the Punjab Police (Haryana Amendment) Rules, 2015, as notified on 18.06.2015, whereby the provisions have been made for denial of appointment to the candidates against whom the charges have been framed for offences punishable with imprisonment for three years or more.

2. Learned Senior counsel for the petitioner submits that the said condition laid down in the Rules does not have any nexus to the purpose sought to be achieved and deserves to be declared *ultra-vires*. He further submits that a charge may be framed on presumption and for that purpose alone, the person may not be deprived of his rightful claim for appointment once he has been selected under an advertisement.

3. Learned Senior counsel further submits that the charges may be framed for offences which may be punishable relating to personal

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matters where the imprisonment is of three years or more including the offences relating to the matrimonial disputes also. However, the same should not be a reason to deny consideration for appointment and therefore, the afore-said Rule which takes away the rightful claim for consideration of appointment of the petitioner as a Constable is liable to be set-aside. He submits that the said Rule has been challenged by the petitioner only when the same has been put to operation while denying him the appointment and therefore, there was no occasion to challenge it before participation in the selection process. He has also invited our attention to the provisions of Sections 251 and 263 of the BNSS, 2023, wherein it has been specifically mentioned that the charges could be framed against a person if there is ground for presumption that the accused has committed an offence. He submits that on the basis of presumption alone, a person should not be deprived of because it is only during the trial that an accused may be ultimately found to be guilty. He further submits that the petitioner has been acquitted in both the cases registered against him and therefore, he should not be deprived of his rightful claim of appointment for the post of Constable.

4. Rule 12.18(3)(b) of the Punjab Police (Haryana Amendment) Rules, 2015, reads as under:-

“(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.”

5. The said Rule is part of the Punjab Police (Haryana Amendment) Rules, 2015, which has been framed in exercise of the powers conferred by the proviso to the Article 309 of the Constitution of India read

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with Section 92 of the Haryana Police Act, 2007. By making the said Rules, the erstwhile Punjab Police Rules, 1934 have been amended to lay down the procedure for direct recruitment and the various eligibility criteria including the criteria of consideration relating to the character and antecedents of a candidate and the verification. The said Rule, thus, comprehensively takes into consideration all the aspects with regard to the candidature of a person who may apply for the post under the Haryana Police Services. The Rule (*supra*), challenged by the petitioner can be examined on two aspects. One is that a candidate who is involved in an offence involving moral turpitude and has been charged for such an offence and the other is where the charges have been framed for offences which are punishable with imprisonment of three years or more which can be upto life too. Thus, the rule-making Authority has taken into consideration the cases where the nature of offence is such where the punishment is to be of three years or more. Therefore, the gravity of the offence has been taken into consideration while framing the afore-said Rule.

6. This Court ordinarily would not interfere with the powers of the State Government in framing the Rules under Article 309 of the Constitution of India. Such a Rule can be declared as *ultra-vires* only when the same does not serve the purpose sought to be achieved, as has been affirmed by the Hon'ble Supreme Court in ***Union of India Vs. Manjurani Routray and others, (2023) 9 SCC 144***. The observations made by the Apex Court read as under:-

“12. Before parting with this Appeal, we note that, vide order dated 15.09.2016, an application being I.A. No. 3 of 2015 for intervention was allowed. By virtue



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of the same, respondents nos. 3 to 141 were impleaded. They seek to support the order of the High Court and have urged various grounds to demonstrate that Rule 4(b) was rightly struck down. As we have set aside the order of the High Court declaring Rule 4(b) as unconstitutional on the ground of lack of any challenge, either in the O.A. or in the writ petition, we do not permit the impleaded parties here to urge those grounds. In case, any of them are adversely affected, they will have the liberty to take recourse in law by instituting appropriate proceedings. We, therefore, recall the order dated 15.09.2016 allowing their impleadment and delete them from the array of parties. We make it clear that we have not expressed any view regarding the validity of the Rules on merits, one way or the other and, therefore, this judgment will not come in the way of any court dealing with the issue of the vires of the Rules in any pending proceeding or in any proceeding that may be initiated afresh.”

7. On bare reading of the afore-said Rule, it is apparent that the State Government does not want to give appointment to any person who may be involved in the offences of such a nature which are culpable of moral turpitude or of such a nature which are punishable with imprisonment of three years or more. The obvious purpose is not to offer appointment in the police services to such persons.

8. In our opinion, the rule-making Authority not only has a right to frame such a rule but the same is in consonance with the purpose sought to be achieved of having clean character of an individual specially for those

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who are to join police services. For minor offences, which are punishable for less than three years, the State authorities have taken a lenient view and rightly so as in such circumstances, a person may get involved in minor offences which may be beyond his own control and for the said purpose, he should not be deprived of his rightful claim for earning his livelihood and appointment in the State services. Thus, we find the above-mentioned Rule to be within the four-corners of the purpose sought to be achieved. The same also does not give any unbridled power to the Authority to deny any person of his rightful claim of consideration for appointment and only limits a person against whom the charges have been framed.

9. In view thereto, we do not find any reason to declare the concerned Rule 12.18(3)(b) of the Punjab Police (Haryana Amendment) Rules, 2015, to be *ultra-vires* to the Act or the Constitution of India. The present writ-petition, therefore, fails and is, accordingly, dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

May 06, 2025
Yag Dutt

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No