



2026:AHC:168627

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 5634 of 2011

Jitendra Kumar Nagar

.....Petitioner(s)

Versus

Union Of India Thru Sec Department Of Home
Affairs And Othe

.....Respondent(s)

Counsel for Petitioner(s) : Harendra Singh, Navin Kumar, Ram
Surat Saroj, Seemant Singh, Vijay
Gautam

Counsel for Respondent(s) : A. S. G. I., S.C., S.K.Om

Court No. - 34

(Sl.No.17)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Seemant Singh, learned counsel for the petitioner and Sri S.K. Om, learned counsel for the respondents.

2. The instant petition has been filed by the petitioner seeking quashing of the order dated 04.08.2010 whereby the services of the petitioner, who was appointed as Constable in CRPF, was terminated in terms of Proviso to Sub-Rule (1) of Rule-5 of Central Civil Services (Temporary Service) Rules, 1965 (in short 'CCS Rules') read with Rule-16 (a) of Central Reserve Police Force Rules, 1955 (in short the 'CRPF Rules') without assigning any reason after giving one month notice to the petitioner. As during the period when the impugned order was passed, the services of the petitioner were still under probation and were temporary service.

3. The briefly stated facts of the case are that the petitioner was appointed as Constable in Central Reserve Police Force Group, Centre Rampur, Uttar Pradesh by offer of appointment dated 07.02.2010. Pursuant thereto, the petitioner had joined at CRPF Rampur and thereafter he was sent for training at 211th Battalion CRPF Pallippuram, Kerala, where he was undergoing the training. It is undisputed in the case that the petitioner has been appointed after due selection process and the petitioner has qualified all the relevant test conducted by the respondents. Though, in the

impugned termination order, no reason has been assigned with regard to termination of the petitioner, simply reference to the aforesaid proviso to Sub-Rule (1) of Rule-5 of CCS Rules and Rule-16 (a) of CRPF Rules has been made. However, in the counter affidavit, the detailed reason has been disclosed by the respondents with regard to the termination of the services of the petitioner, according to which, during submission of the verification form by the petitioner in response to the clause 12(a) and 12(b) of the verification form, the petitioner has answered as 'No', Whereas, clause 12(a) had asked the petitioner as to whether he was ever arrested, prosecuted or kept under detention or bound down / fined, convicted by a court of law for any offence or have been barred, disqualified by any Public Service Commission from appearing at its examination and selection or he has been restrained from taking any examination or rusticated by any university or any other educational authority. Clause 12(b) refers to whether any case is pending against the candidate in any court of law, university or any other educational authority / institution at the time of filling up this verification roll. If answer to 12(a) or 12(b) is 'Yes', then the details thereof was also required to be given. In response to both the aforesaid queries in the verification form, the petitioner has given an answer as 'No'. On the basis of the aforesaid response by the petitioner, he was given appointment and during the verification of the documents, a report was called from the District Magistrate concerned, who has reported that a criminal case, being Case Crime No. 138 of 2002 was registered against the petitioner under Sections 147, 452, 323, 325, 504, and 506 IPC and is pending before the Additional Chief Judicial Magistrate, Gautam Buddha Nagar. On the basis of the aforesaid report, since there was non-disclosure of the aforesaid criminal case on the part of the petitioner, the impugned termination order has been passed by the Commandant, 211th Battalion, Group Centre, CRPF Pallippuram, Kerala, where the petitioner was undergoing the training.

4. A preliminary objection has been taken on behalf of the respondents that this Court has no jurisdiction to entertain the instant petition due to lack of territorial jurisdiction as the impugned order was passed in state of Kerala and no part of cause of action has arisen within the territorial

jurisdiction of this court.

5. In response thereto, learned counsel for the petitioner submits that the entire recruitment process of the petitioner was completed in the state of UP, the verification form was also filled up by the petitioner in the state of UP and the report of District Magistrate, Gautam Buddha Nagar was also obtained with regard to pendency of the criminal case against the petitioner in the state of UP, which is the cause of action for passing of the formal termination order by the Commandant, 211th Battalion, Group Centre, CRPF Pallippuram, Kerala. Thus, learned counsel for the petitioner submits that the cause of action has arisen within the territorial jurisdiction of this Court. Therefore, this Court has jurisdiction to try and entertain the instant petition.

6. In support of his submission, learned counsel for the petitioner has relied upon the judgment of Full Bench of this Court in **Writ-A No.2071 of 2017 (Manish Kumar Mishra vs. Union of India)** and submits that even if a small fraction of cause of action arises within the jurisdiction of this Court, it would have territorial jurisdiction to entertain the petition. The relevant observation of this Court in Manish Kumar Sharma (supra) reads as under:

"154. As to whether the facts averred by the writ petitioner, in a particular case, constitute a part of cause of action, has to be determined, on the basis of the test whether such facts constitute a material, essential or integral part of the lis between the parties; if it is, it forms a part of cause of action and if it is not, it does not form a part of cause of action. In determining the said question the substance of the matter and not the form thereof has to be considered, and even if a small fraction of cause of action arises within the jurisdiction of the Court, it would have territorial jurisdiction to entertain the petition."

7. Learned counsel for the petitioner has also further relied upon Full Bench judgment of this Court in **Rajendra Kumar Mishra vs. Union of India and others, 2005 (1) UPLBEC 108**.

8. Per contra, learned counsel for the respondents has relied upon the judgment of Apex Court in **Nawal Kishore Sharma vs. Union of India**,

2014 (9) SCC 329 and submit that to confer the jurisdiction, the petitioner is required to establish that a legal right claimed by him has been infringed by the respondents within the territorial limits of the court's jurisdiction and unless it is established, this Court will not have jurisdiction to entertain the petition. Learned counsel for the respondents has also relied upon the judgment of this Court dated 08.04.2015 in **Writ A No. 16640 of 2015 (Raj Bahadur vs. Union of India)**.

9. Apart from the jurisdiction, learned counsel for the petitioner has submitted that even at the time of the registration of the said criminal case against the petitioner, the petitioner was only 15 years of age, thus was a juvenile and in terms of Section 19 and 21 of the Juvenile Justice Act, 2000 no disqualification with regard to the employment can be attached due to the aforesaid registration of the criminal case against a juvenile. It is further submitted by learned counsel for the petitioner that even in terms of the policy of the Government of India with regard to the recruitment and appointment in the Central Armed Police Forces, dated 01.02.2012, it has been apparently provided that unless the offences involved in a criminal case are of heinous nature or involve the moral turpitude, no disqualification can be attached and on the basis of mere pendency of the criminal case, the appointment cannot be cancelled.

11. With regard to the aforesaid submission on merits, learned counsel for the respondent submits that since those grounds were not taken in the petition by the petitioner, therefore, he is not in a position to respond to the same. However, he is not in a position also to dispute the legal position with regard to the juvenility of the petitioner at the time of registration of the criminal case and the fact that no disqualification can be attached on the basis of the pendency of the said criminal case against a juvenile in public employment.

12. Having heard the rival submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the case. The facts of the case have already been noted herein above. Briefly, the facts giving rise to the present writ petition are that the petitioner, who was candidate for appointment on the post of Constable, CRPF, had submitted his form at CRPF Camp, Rampur and submitted his

verification form, filled up by the petitioner at Rampur and thereafter he was sent for training at 211th Battalion, Group Centre, CRPF, Pallippuram, Kerala where the Commandant of 211th Battalion passed an impugned termination order in light of the report of the District Magistrate, Gautam Buddha Nagar, whereby it came to light that criminal case was pending against the petitioner being Criminal Case No. 128 of 2010, arising out of Case Crime No.138 of 2002..

13. In support of his submission, learned counsel for the respondents has relied upon the judgment of the Apex Court in **Lt. Col. Khajoor Singh v. Union of India, 1960 SCC OnLine SC 12**, which is a seven-judges Bench judgment. Paragraph 13 of the said judgment reads as under:

"13. This brings us to the first question, namely, whether the Government of India as such can be said to be located at one place, namely, New Delhi. The main argument in this connection is that the Government of India is all-pervasive and is functioning throughout the territory of India and therefore every High Court has power to issue a writ against it, as it must be presumed to be located within the territorial jurisdiction of all State High Courts. This argument in our opinion confuses the concept of location of a Government with the concept of its functioning. A Government may be functioning all over a State or all over India; but it certainly is not located all over the State or all over India. It is true that the Constitution has not provided that the seat of the Government of India will be at New Delhi. That, however, does not mean that the Government of India as such has no seat where it is located. It is common knowledge that the seat of the Government of India is in New Delhi and the Government as such is located in New Delhi. The absence of a provision in the Constitution can make no difference to this fact. What we have to see, therefore, is whether the words of Article 226 mean that the person or authority to whom a writ is to be issued has to be resident in or located within the territories of the High Court issuing the writ? The relevant words of Article 226 are these-

"Every High Court shall have power... to issue to any person or authority... within those territories..."

So far as a natural person is concerned, there can be no doubt that he can

be within those territories only if he resides therein either permanently or temporarily. So far as an authority is concerned, there can be no doubt that if its office is located therein it must be within the territory. But do these words mean with respect to an authority that even though its office is not located within those territories it will be within those territories because its order may affect persons living in those territories? Now it is clear that the jurisdiction conferred on the High Court by Article 226 does not depend upon the residence or location of the person applying to it for relief; it depends only on the person or authority against whom a writ is sought being within those territories. **It seems to us therefore that it is not permissible to read in Article 226 the residence or location of the person affected by the order passed in order to determine the jurisdiction of the High Court. That jurisdiction depends on the person or authority passing the order being within those territories and the residence or location of the person affected can have no relevance on the question of the High Court's jurisdiction.** Thus if a person residing or located in Bombay, for example, is aggrieved by an order passed by an authority located, say, in Calcutta, the forum in which he has to seek relief is not the Bombay High Court though the order may affect him in Bombay but the Calcutta High Court where the authority passing the order is located. It would, therefore, in our opinion be wrong to introduce in Article 226 the concept of the place where the order passed has effect in order to determine the jurisdiction of the High Court which can give relief under Article 226. The introduction of such a concept may give rise to confusion and conflict of jurisdictions. Take, for example, the case of an order passed by an authority in Calcutta, which affects six brothers living, say, in Bombay, Madras, Allahabad, Jabalpur, Jodhpur and Chandigarh. The order passed by the authority in Calcutta has thus affected persons in six States. Can it be said that Article 226 contemplates that all the six High Courts have jurisdiction in the matter of giving relief under it? The answer must obviously be "No", if one is to avoid confusion and conflict of jurisdiction. As we read the relevant words of Article 226 (quoted above) **there can be no doubt that the jurisdiction conferred by that Article on a High Court is with respect to the location or residence of the person or authority passing the order and there can be no question of introducing the concept of the place where the order is to**

*have effect in order to determine which High Court can give relief under it. It is true that this Court will give such meaning to the words used in the Constitution as would help towards its working smoothly. If we were to introduce in Article 226 the concept of the place where the order is to have effect we would not be advancing the purposes for which Article 226 has been enacted. On the other hand, we would be producing conflict of jurisdiction between various High Courts as already shown by the illustration given above. Therefore, the effect of an order by whomsoever it is passed can have no relevance in determining the jurisdiction of the High Court which can take action under Article 226. Now, functioning of a Government is really nothing other than giving effect to the orders passed by it. Therefore it would not be right to introduce in Article 226 the concept of the functioning of Government when determining the meaning of the words "any person or authority within those territories". By introducing the concept of functioning in these words we shall be creating the same conflict which would arise if the concept of the place where the order is to have effect is introduced in Article 226. There can, therefore, be no escape from the conclusion that these words in Article 226 refer not to the place where the Government may be functioning but only to the place where the person or authority is either resident or is located. So far therefore as a natural person is concerned, he is within those territories if he resides there permanently or temporarily. So far as an authority (other than a Government) is concerned, it is within the territories if its office is located there. **So far as a Government is concerned it is within the territories only if its seat is within those territories.**"*

14. In **Rajendra Kumar Mishra (supra)**, the Full Bench of this Court has opined that merely because the petitioner is the resident of the State of UP, would not confer the jurisdiction to this Court to entertain the writ petition.

15. In the case of **Nawal Kishore Sharma (supra)**, the Apex Court has held that under:

"16. Regard being had to the discussion made hereinabove, there cannot be any doubt that the question whether or not cause of action wholly or in

part for filing a writ petition has arisen within the territorial limit of any High Court has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution. In order to maintain a writ petition, the petitioner has to establish that a legal right claimed by him has been infringed by the respondents within the territorial limit of the Court's jurisdiction."

16. Thus, from the aforesaid judgment, it is crystal clear that the mere residence of the petitioner in the State of UP would not confer the jurisdiction to this Court to entertain this petition. However, if the cause of action has arisen or even if a part of the cause of action has arisen before this Court, then this Court will have jurisdiction to entertain the petition, as has been held by Full Bench of this Court in **Manish Kumar Mishra (supra)**.

17. In the instant case, since the entire selection process of the petitioner has taken place in the CRPF Camp, Rampur and the petitioner has also submitted the verification form at CRPF Camp, Rampur, he was given appointment by the CRPF Camp, Rampur and thereafter, he was sent for training at 211th Battalion, CRPF, Pallippuram, Kerala, where after receiving the report of the District Magistrate, Gautam Buddha Nagar with regard to pendency of the criminal case against the petitioner, the Commandant, CRPF Camp, Pallippuram, Kerala has passed the impugned order of termination.

18. In such view of the matter, the entire cause of action for the selection and for termination has arisen within the State of UP and only a formal order of termination has been passed by the Commandant, 211th Battalion, Pallippuram, Kerala. In such view of the matter, since part of the cause of action has arisen within the State of UP, therefore, in the considered opinion of this Court, this Court has territorial jurisdiction to entertain this writ petition.

19. With regard to the merits of the case, it is an admitted position in this case that at the time of the pendency of the criminal case against the petitioner, the petitioner was about 15 years of age, thus was a juvenile, within the meaning of Juvenile Justice (Care and Protection of

Children) Act 2000.

20. Sections 19 and 21 of Juvenile Justice (Care and Protection of Children) Act, 2000 reads as under:

"19. Removal of disqualification attaching to conviction

(1)Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

(2)The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.

21. [Prohibition of publication of name, etc., of juvenile in conflict with law or child in need of care and protection involved in any proceeding under the Act [Substituted by Act 33 of 2006, Section 15, for Section 21 (w.e.f. 22-8-2006).]

(1)No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child nor shall any picture of any such juvenile or child be published:Provided that for reasons to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child.

(2) Any person who contravenes the provisions of sub-section (1), shall be liable to a penalty which may extend to twenty-five thousand rupees.]"

21. Rule 99 of Juvenile Justice (Care and Protection of Children) Rules, 2007 reads as under:

"99. Disposal of records or documents- the records or documents in respect of a juvenile or a child or a juvenile in conflict with law shall be kept in a safe place for a period of seven years and no longer, and thereafter be destroyed by the Officer-in-charge or Board or Committee, as the case may be."

22. From the cumulative reading of the aforesaid provisions of the Act and Rules, it is clear that no disqualification shall be attached to a juvenile due to the pendency of the criminal case against him in public employment.

23. In such view of the matter, even if the pendency of the said criminal case is taken into consideration, the said cannot be disqualification for the employment of the petitioner as Constable. The Court may further take note of Ministry of Home Affairs (MHA) policy order dated 01.02.2012, which reads as under:

" Policy"

MHA Policy Guidelines dated 1 February 2012

"Accordingly, the matter has been considered in this Ministry in consultation with CAPFs and it has been decided as follows:-

III. The candidate will not be considered for recruitment if:

- a) Such involvement/case/arrest is concerned with an offence mentioned in Annexure A:*
- b) Such arrest/detention is made under any of the Acts which are concerned with security and integrity of the country, terrorist and disruptive activities, acts against the State, insurgency, etc.;*
- c) The candidate has been detained under the National Security Act/Crime Control Act/any Control similar legislation, and the same is confirmed by the Reviewing Authority;*
- d) Such involvement/case/arrest is concerned with an offence involving moral turpitude;*
- e) He/she has been convicted by a Court in any case whether or not an appeal is pending against such conviction.*

Provided that the candidate shall not be barred in the above cases, if only an FIR has been registered/ the case is under investigation and no charges have been framed either on FIR or on the complaint in any Court of law.

Provided further that the candidate shall not be debarred if he/she has been involved/convicted/concerned with minor offences mentioned in

Annexure B those mentioned in *Chapter VIII & X of Code of Criminal Procedure, 1973.*

V. Notwithstanding the provisions of 3 (III) above, such candidates against whom chargesheet in a criminal case has been filed in the court and the charges fall in the category of serious offences or moral turpitude, though later on acquitted by extending benefit of doubt or acquitted for the reasons that the witness have turned hostile due to fear of reprisal by the accused person(s), he/she will generally not be considered suitable for appointment in the CAPF. The details of crimes which are serious offences or involve moral turpitude are at Annexure 'A'. However, cases in which the criminal court, while acquitting, has categorically mentioned that the criminal case would not be a bar on appointment in Government Services, the candidate shall be considered for appointment in the concerned CAPF."

24. Thus, from the policy guidelines of the Ministry of Home Affairs, it is also apparent that unless the offences involved are of heinous nature concerned with the security and dignity of the country, terrorist and subversive activities against the State, insurgency or the crime against national security and crime control or the offences involve the moral turpitude or where the candidate has been convicted in a criminal case. Only in that situation, the candidate cannot be considered for the recruitment/appointment and can be cancelled on the basis of pendency of the criminal case under the aforesaid provisions against the candidates. However, looking at the offences involved in the instant case, those are of trivial nature, that too, when the said case was lodged against the petitioner at the time when he was a juvenile and in terms of provisions of the Juvenile Justice Act also. Even the registration of the criminal case during the juvenility cannot disqualify the petitioner from public employment like in the instant case. In such view of the matter, the impugned order appears to be wholly arbitrary and without any authority.

25. So far as the non-disclosure of the pending criminal case is concerned, the Apex Court has laid down the concluded guidelines in terms of the MHA policy in the judgment of **Avtar Singh vs. Union of India and others, (2016) 8 SCC 471**, which reads as follows:-

"24. In *Commr. of Police v. Sandeep Kumar* [*Commr. of Police v. Sandeep Kumar*, (2011) 4 SCC 644 : (2011) 2 SCC (Cri) 426 : (2011) 1 SCC (L&S) 734] , this Court considered a case where Sandeep Kumar's candidature for the post of Constable was cancelled on the ground that he had concealed his involvement in the criminal case under Sections 325/34 IPC when he was about 20 years. In para 9, this Court took note of the character "Jean Valjean" in Victor Hugo's novel *Les Miserables* in which for committing a minor offence of stealing a loaf of bread for his hungry family, Jean Valjean was branded as a thief for whole life. This Court also referred to the decision in *Morris v. Crown Office* [*Morris v. Crown Office*, (1970) 2 QB 114 : (1970) 2 WLR 792 (CA)] . Relevant portion is extracted hereunder : (*Sandeep Kumar case* [*Commr. of Police v. Sandeep Kumar*, (2011) 4 SCC 644 : (2011) 2 SCC (Cri) 426 : (2011) 1 SCC (L&S) 734] , SCC pp. 645-47, paras 8-12)

"8. We respectfully agree with the Delhi High Court [*Sandeep Kumar v. Commr. of Police*, 2006 SCC OnLine Del 836 : (2006) 90 DRJ 707] that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened, the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

9. In this connection, we may refer to the character "Jean Valjean" in Victor Hugo's novel *Les Miserables*, in which for committing a minor offence of stealing a loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.

10. We may also here refer to the case of Welsh students mentioned by Lord Denning in his book *Due Process of Law*.

It appears that some students of Wales were very enthusiastic about the Welsh language and they were upset because the radio programmes were being broadcast in the English language and not in Welsh. They came up to London and invaded the High Court. They were found guilty of contempt of court and sentenced to prison for three months by the High Court Judge. They filed an appeal before the Court of Appeals. Allowing the appeal, Lord Denning observed [Morris v. Crown Office, (1970) 2 QB 114 : (1970) 2 WLR 792 (CA)] :

'I come now to Mr Watkin Powell's third point. He says that the sentences were excessive. I do not think they were excessive, at the time they were given and in the circumstances then existing. Here was a deliberate interference with the course of justice in a case which was no concern of theirs. It was necessary for the Judge to show—and to show to all students everywhere—that this kind of thing cannot be tolerated. Let students demonstrate, if they please, for the causes in which they believe. Let them make their protests as they will. But they must do it by lawful means and not by unlawful. If they strike at the course of justice in this land—and I speak both for England and Wales—they strike at the roots of society itself, and they bring down that which protects them. It is only by the maintenance of law and order that they are privileged to be students and to study and live in peace. So let them support the law and not strike it down.

But now what is to be done? The law has been vindicated by the sentences which the Judge passed on Wednesday of last week. He has shown that law and order must be maintained, and will be maintained. But on this appeal, things are changed. These students here no longer defy the law. They have appealed to this Court and shown respect for it. They have already served a week in prison. I do not think it

necessary to keep them inside it any longer. These young people are no ordinary criminals. There is no violence, dishonesty or vice in them. On the contrary, there was much that we should applaud. They wish to do all they can to preserve the Welsh language. Well may they be proud of it. It is the language of the bards—of the poets and the singers—more melodious by far than our rough English tongue. On high authority, it should be equal in Wales with English. They have done wrong—very wrong—in going to the extreme they did. But, that having been shown, I think we can, and should, show mercy on them. We should permit them to go back to their studies, to their parents and continue the good course which they have so wrongly disturbed.’ (Vide Morris v. Crown Office [Morris v. Crown Office, (1970) 2 QB 114 : (1970) 2 WLR 792 (CA)] , QB at p. 125C-H.)

In our opinion, we should display the same wisdom as displayed by Lord Denning.

11. As already observed above, youth often commits indiscretions, which are often condoned.

12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.”

This Court has observed that suppression related to a case when the age of Sandeep Kumar was about 20 years. He was young and at such age people often commit indiscretions and such indiscretions may often be condoned. The modern approach should be to reform a person instead of branding him a criminal all his life. In Morris v. Crown Office [Morris v. Crown Office, (1970) 2 QB 114 : (1970) 2 WLR 792 (CA)] , the

observations made were that young people are no ordinary criminals. There is no violence, dishonesty or vice in them. They were trying to preserve the Welsh language. Though they have done wrong but we must show mercy on them and they were permitted to go back to their studies, to their parents and continue the good course.

35. Suppression of “material” information presupposes that what is suppressed that “matters” not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.

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 recourses 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.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while

addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him."

26. In **Pawan Kumar vs. Union of India (2023) 12 SCC 317**, the Apex Court observed as under:

"11. This cannot be disputed that the candidate who intends to participate in the selection process is always required to furnish correct information relating to his character and antecedents in the verification/attestation form before and after induction into service. It is also equally true that the person who has suppressed the material information or has made false declaration indeed has no unfettered right of seeking appointment or continuity in service, but at least has a right not to be dealt with arbitrarily and power has to be judiciously exercised by the competent authority in a reasonable manner with objectivity having due regard to the facts of the case on hand. It goes without saying that the yardstick/standard which has to be applied with regard to adjudging suitability of the incumbent always depends upon the nature of post, nature of duties, effect of suppression over suitability to be considered by the authority on due diligence of various aspects but no hard-and-fast rule of thumb can be laid down in this regard.

13. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into consideration, while taking appropriate decision regarding continuance/suitability of the employee into service. What has been noticed by this Court is that mere suppression of material/false information in a given case does not mean that the

employer can arbitrarily discharge/terminate the employee from service."

27. From the aforesaid judgments, it is apparent that the non-disclosure of a criminal case in character verification form by the candidate will not automatically result in his disqualification or termination, removal or discharge from service. After the revelation of criminal case, it is mandatory for the authorities concerned to act judiciously and to take an objective decision on the basis of the relevant policies, rules or regulations, whether the nature of offences involved in the said criminal case are of heinous nature or involves moral turpitude and if the answer is 'Yes', the authorities are required to take appropriate decision for removal from service. However, if the answer is 'No' and the offences involved are of the trivial nature and involving moral turpitude and other attending circumstances, in which the said criminal case was lodged against such candidate and if the conduct of the petitioner do not attract the disqualification in terms of the relevant rules, the services cannot be terminated. In ***Avtar Singh (supra)***, the Apex Court has also observed that there can be many attending circumstances due to fear of losing job, the persons who are of tender age do not disclose the pendency of the criminal case out of fear. Mere non-disclosure would not disqualify such candidate from the public employment unless the offenses are of such a nature that would disqualify the petitioner in terms of the relevant policies, rules, or regulations.

28. Likewise, following the judgment of Avatar Singh, the Apex Court in ***Ravindra Kumar v. State of U.P., (2024) 5 SCC 264***, has held in para-32 as under:

"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."

29. In view of the above, the respondents acted hastily in passing the impugned order dated 04.08.2022 without considering the nature of the offence and the juvenility of the petitioner at the time of the registration of the offences.

30. In such view of the the instant writ petition is **allowed**.

31. The impugned order is hereby quashed. The petitioner shall be reinstated in service with all consequential benefits including the continuity in service. However, since the petitioner could not work, due to pendency of the instant petition and due to illegal termination order passed by the respondents, he shall be paid bacwages/salary to the extent of 25% from the date of termination till his reinstatement.

32. The necessary compliance shall be done within eight weeks from the date of communication of this order.

(Anish Kumar Gupta,J.)

August 11, 2026

Ashish Pd.