



2026:AHC:28200

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 8876 of 2024

Amit Kumar Yadav

.....Petitioner(s)

Versus

State Of Up And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Siddharth Khare
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Himanshu Singh (A/H 0277/2019), Advocate holding brief of Sri Siddharth Khare, learned counsel for the petitioner and Sri S.K. Pal, learned Additional Chief Standing Counsel, who appears for State-respondents.

2. The counsel for the rival parties have made a joint statement that they do not propose to file any further affidavits thus with the consent of the parties, writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that an advertisement came to be published in the year 2016 for the post of Tube-well Operator in the State of Uttar Pradesh wherein around 3300 posts was advertised by U.P. Subordinate Selection Commission. The writ petitioner was being eligible and he had applied under OBC category and he allotted roll no. 96495. The writ petitioner claims to have selected and a certificate to the said extent was issued on 16.03.2020, however, with the advent of the Corona Pandemic, the training as well as joining was deferred and the writ petitioner was directed to submit an affidavit that there was no criminal case pending against him which the writ petitioner furnished on 07.08.2020. The writ petitioner, *vide* order dated 21.08.2020, was directed for training for a month. The writ petitioner appeared in the training on 25.09.2020. However in the meantime, as the ill luck it may be, a first information report came to be lodged on 23.04.2020 against the writ petitioner being FIR No. 0044 under Sections 147, 323, 504 IPC against the applicant and the other accused by one Prashant Kumar Yadav. Since the writ petitioner had completed the training, however, he was not accorded joining so the writ petitioner

represented his cause before the respondents, however, on 06.11.2020, an order came to be passed by the respondents whereby the selection of the writ petitioner on the post of tubewell operator came to be cancelled which was subject matter of challenge in Writ-A No. 13642 of 2020 (Amit Kumar Yadav v. State of U.P. and others) wherein on 19.04.2023, the following orders were passed:

"Heard learned counsel for the petitioner and Sri Vikram Bahadur Yadav, learned Standing Counsel.

By means of present petition, the petitioner has assailed the order dated 06.11.2020 by which his selection for the post of Tubewell Operator has been cancelled on the ground that he has violated instructions mentioned at serial No.12 in the advertisement No.15(3)/2016/Nalkupchalak (General Recruitment) as he has concealed the material fact that a criminal case is pending against him.

The facts in brief are that the petitioner pursuant to an advertisement issued vide advertisement No.15(3)/2016/Nalkupchalak (General Recruitment) by U.P. Subordinate Service Selection Commission inviting application for the post of Tubewell Operator under the Irrigation and Water Resources Department submitted application for being considered for appointment under OBC category.

The petitioner participated in the selection process and was finally selected. The select list was thereafter forwarded by the U.P. Subordinate Services Selection Commission to the Irrigation and Water Resources Department. The petitioner's name appeared in serial No.65 in the select list and on the basis of select list, the allotment of Division was proceeded with. The petitioner participated in the said proceeding and the Chief Engineer allotted Tubewell Division Mirzapur to the petitioner vide order dated 16.03.2020.

The petitioner underwent the training for a period of one month, however, the petitioner was not issued an appointment letter which led the petitioner to file a representation before the competent authority to issue an appointment letter. The Executive Engineer vide order dated 06.11.2020 cancelled the selection of the petitioner which is impugned in the writ petition.

Challenging the said order learned counsel for the petitioner contended that at the time of filing up the application form, there was no criminal case pending against the petitioner and as such there was no violation by the petitioner of the condition mentioned at serial No.12 in the

advertisement No.15(3)/2016/Nalkupchalak (General Recruitment).

It is contended that an FIR on account of the enmity has been lodged against the petitioner under Sections 147, 323 & 504 I.P.C. on 23.04.2020 after the training period. It is submitted that such an F.I.R. cannot be made basis to deny the appointment of the petitioner. It is submitted that the impugned order has been passed without application of mind and without due consideration inasmuch as the Police Verification Report only mentions about the pendency of criminal case, but the Executive Engineer while passing the order has failed to appreciate as to whether the criminal case pending against the petitioner would fall in the definition of moral turpitude so as to disentitle the petitioner from being appointed.

It is submitted that the alleged F.I.R. has been lodged out of enmity as there is a land dispute between the petitioner and the complainant of F.I.R., and had the petitioner been given any opportunity of hearing by the Executive Engineer before passing the order, the petitioner would have demonstrated that there is no concealment or violation of any of the conditions of the advertisement by the petitioner and further the said F.I.R. is nothing but an abuse of the process of the Court and has been lodged only on account of the enmity in order to deprive the petitioner from getting appointment.

Learned Standing counsel would contend that the petitioner in his affidavit dated 07.08.2020 has concealed the factum of the pendency of criminal case pending against him and as there is violation of condition of the advertisement, therefore, the petitioner has rightly been denied the appointment.

Be that as it may, it is not disputed that pursuant to the advertisement, the petitioner was considered for appointment on the post of Tubewell Operator. The petitioner was declared successful, and on the basis of merit list, he was allotted Mirzapur Division by the order of the Chief Engineer dated 16.03.2020. The petitioner underwent necessary training for one month which the petitioner completed on 25.09.2020. It is only at the stage of issuing appointment letter, the fact of filing F.I.R. against the petitioner came on record through verification report of S.S.P.

The record reveals that F.I.R. has been lodged against the petitioner on 24.04.2020 after selection process was completed. It is also averred by the petitioner in para 17 of the petition that one Shubh Narain Yadav who is the complainant in the F.I.R., has instituted Original Suit No.19/2007 (Shubh Narain Yadav versus Ramkhilawan and others) in the Court of

Civil Judge (JD), Mirzapur against the petitioner and on account of the said enmity, a false F.I.R. has been lodged.

In such view of the fact, this Court finds that it is one such case where the Executive Engineer should have given opportunity of hearing to the petitioner in order to enable the petitioner to demonstrate that the F.I.R. lodged against him is nothing but an abuse of process of Court and pendency of criminal case would not fall under the category of moral turpitude. The correct facts have not been considered by the Executive Engineer while denying the appointment of the petitioner.

In such view of the fact, this Court finds that the impugned order is not sustainable in law, and therefore, the impugned order is set aside with liberty to respondent No.4- Executive Engineer, Tubewell Division, Irrigation & Water Resources Department, Mirzapur to pass a fresh order after giving due notice and opportunity of hearing to the petitioner and shall also give due consideration as to whether the case of the petitioner falls within the definition moral turpitude so as to deny him the appointment on the said post.

The aforesaid exercise shall be completed by the Executive Engineer within a period of four weeks from the date of production of certified copy of this order.

The writ petition is accordingly allowed, with no order as to costs."

4. Thereafter the writ petitioner appeared before the Executive Engineer, Tube-well Division Mirzapur, respondent no.4 and now the order impugned came to be passed on 10.11.2023 negating the claim set up by the writ petitioner.

5. Questioning the same, the writ petitioner has been filed the present writ petition.

6. This Court entertained the writ petition on 31.05.2024 sought response.

7. A counter affidavit has been filed by Assistant Engineer, Tube-well Division Mirzapur, dated 07.04.2024 which is available on record.

8. Learned counsel for the writ petitioner has submitted that the impugned order dated 10.11.2023 passed by the Executive Engineer, Tubewell Mirzapur, fourth respondent cannot be sustained even for a single moment. Elaborating the said submission, it is contended that the respondent no. 4 was swayed with the fact that there is a criminal case pending against the

writ petitioner and the said consideration weighed with him so as to denude the claim of the writ petitioner without considering the crucial aspect of the matter as to when the said FIR came to be lodged. Submission is that the timing of the said FIR itself shows that it is nothing but a *mala fide* act full of vindication so as to dislodge the writ petitioner.

9. Contention is that the advertisement came to be published in the year 2016 and the writ petitioner was selected, and a certificate came to be issued on 16.03.2020. However, showing an incident on 23.04.2020, a first information report came to be lodged against the writ petitioner and the other accused named in the FIR on 24.04.2020 at 13.28 hours being FIR No. 0044 under Sections 147, 323, 504 IPC. Contention is that the position might have been different, in case, when the advertisement or the interregnum period between the date and the selections stood conducted, the FIR would have been lodged. But here the first informant just in order to harass the writ petitioner in all possible manner lodged the FIR when it struck his mind that the writ petitioner would be accorded appointment post selection. Contention is that this Court in the earlier spell of litigation vide order dated 19.04.2023 in Writ-A No. 13642 of 2023, this Court had bestowed consideration upon the fact that the FIR was nothing but a vindictive attitude and further in Original Suit No. 19 of 2007 was also instituted and the said animosity was a motivating factor for lodging of the first information report.

10. It is also contended that the said crucial aspect of the matter has not been considered in the order impugned and further there happens to be a Government order dated 28.04.1958, according to which, mere conviction does not *ipso facto* is a ground to denude the selections and benefits, as there has to be a consideration at the end of the appointing authority. Reliance has also been placed upon the judgement of the Hon'ble Apex Court in ***Avtar Singh v. Union of India and others; 2016 (8) SCC 471*** and also ***Pawan Kumar v. Union of India and another; 2022 SCC Online SC 532*** and ***Ravindra Kumar v. State of U.P. and others; 2024 SCC Online SC 180***.

11. Sri S.K. Pal, learned Additional Chief Standing Counsel has submitted that the writ petitioner has concealed the facts and does not disclose the vital facts which goes to the root of the matter regarding the pendency of the criminal case. He submitted a false affidavit, thus he has to face the music. He further submits that as per the Government order so issued from time to time before joining or posting, the authorities conducted an investigation and

they found that the information so furnished and disclosed in the affidavit was false.

12. I have heard learned counsel for the parties and gone through the records carefully.

13. Facts are not in issue. It is not in issue that in the year 2016, an advertisement came to be published, i.e. advertisement No. 15(3)/2016/Nalkupchalak (General Recruitment) by U.P. Subordinate Service Selection Commission inviting application for the post of Tubewell Operator. The writ petitioner applied under OBC category and he was selected and certificate to the said extent came to be issued on 16.03.2020. The writ petitioner tendered an affidavit disclosing that there was no criminal case pending against him on 07.08.2020 and an order passed on 21.08.2020 requiring the writ petitioner to appear for training and the writ petitioner had undergone the training successfully and the certificate came to be issued on 25.09.2020. However, the twist came into play on 24.04.2020, a first information report bearing No. 0044 of 2020 came to be lodged against the writ petitioner and other co-accused under Sections 147, 323, 504 IPC. Thereafter, the selection of the writ petitioner came to be cancelled on 06.11.2020 which was subject matter of challenge in Writ-A No. 13642 of 2020, wherein the order impugned therein was set aside and the matter was remitted back to the authority to pass fresh orders and thereafter the order impugned came to be passed on 10.11.2023 by the Executive Engineer, Tube-well Division Mirzapur, respondent no.4.

14. The order impugned reads as under:

“मा० उच्च न्यायालय इलाहाबाद में श्री अमित कुमार यादव पुत्र श्री कन्हैया लाल यादव के द्वारा रिट याचिका संख्या-13642/2020 अमित कुमार यादव बनाम उ०प्र० राज्य व अन्य योजित किया गया, जिसमें मा० उच्च न्यायालय इलाहाबाद के द्वारा दिनांक-19.04.2023 को निम्न निर्णय दिया गया है:-

"Heard learned counsel for the petitioner and Sri Vikram Bahadur Yadav, learned Standing Counsel.

By means of present petition, the petitioner has assailed the order dated 06.11.2020 by which his selection for the post of Tubewell Operator has been cancelled on the ground that he has violated instructions mentioned at serial No.12 in the advertisement No.15(3)/2016/Nalkupchalak (General Recruitment) as he has concealed the material fact that a

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It is submitted that the alleged F.I.R. has been lodged out of enmity as

there is a land dispute between the petitioner and the complainant of F.I.R., and had the petitioner been given any opportunity of hearing by the Executive Engineer before passing the order, the petitioner would have demonstrated that there is no concealment or violation of any of the conditions of the advertisement by the petitioner and further the said F.I.R. is nothing but an abuse of the process of the Court and has been lodged only on account of the enmity in order to deprive the petitioner from getting appointment.

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The aforesaid exercise shall be completed by the Executive Engineer within a period of four weeks from the date of production of certified copy of this order.

The writ petition is accordingly allowed, with no order as to costs.

Order Date :- 19.4.2023

R.S. Tiwari

1-उक्त आदेश के क्रम में श्री अमित कुमार यादव द्वारा दिनांक-22.06.2023 को अपना प्रत्यावेदन इस कार्यालय में प्रस्तुत किया गया। प्रत्यावेदन में मा० उच्च न्यायालय के द्वारा पारित आदेश की प्रमाणित प्रति संलग्न करते हुये आदेश के क्रम में नलकूप चालक के पद पर नियुक्त करने का अनुरोध किया गया।

2-इस कार्यालय के पत्रांक-665/ न०ख० मी०/न०नियु० न०चा०/ मीरजापुर/ दिनांक 24.05.2023 द्वारा श्री अमित कुमार यादव दिनांक-07.06.2023 को प्रातः 11:00 बजे व्यक्तिगत रूप से कार्यालय नलकूप खण्ड, मीरजापुर में अपना पक्ष प्रस्तुत करने हेतु निर्देशित किया गया।

3-श्री अमित कुमार यादव नियत तिथि में कार्यालय में उपस्थित हुए एवं अपना पक्ष प्रत्यावेदन के अनुसार प्रस्तुत करते हुए पुनः नियुक्त करने का अनुरोध किया। पक्ष प्रस्तुत करने के क्रम में अभिलेखीय साक्ष्य प्रस्तुत करने हेतु श्री अमित कुमार यादव द्वारा 01 माह का समय दिये जाने का अनुरोध किया गया।

4-श्री अमित कुमार यादव द्वारा दिनांक-11.07.2023 को पत्र दिनांक-22.06.2023 द्वारा अभिलेखीय साक्ष्य के रूप में पुलिस द्वारा अपर मुख्य न्यायिक मजिस्ट्रेट को प्रेषित आरोप पत्र (संलग्नक रहित) एवं सूचना अधिकार के अन्तर्गत प्राप्त सूचना (मूलरूप में) प्रस्तुत की।

5-इस कार्यालय के पत्रांक संख्या-1352/न० ख०मी०/दिनांक-12.09.2023 द्वारा मुख्य स्थाई अधिवक्ता मा० उच्च न्यायालय, इलाहाबाद से विधिक राय का अनुरोध किया गया। मुख्य स्थाई अधिवक्ता द्वारा दिनांक-21.09.2023 को अपनी विधिक राय प्रदान की (संलग्नक-01)।

6-इस कार्यालय के पत्रांक-1576/दिनांक-10.10.2023 द्वारा जिला शासकीय अधिवक्ता (क्रिमिनल), मीरजापुर को मुकदमा अपराध संख्या-04/2020 के चार्ज शीट की नकल उपलब्ध कराने हेतु पत्र प्रेषित किया गया।

क-नोटिस के अन्तर्गत धारा-41 ए/ द०प्र०सं० द्वारा श्री अमित कुमार यादव को अभियुक्त बनाये जाने की सूचना दी गयी है। जिसकी प्राप्ति में याची के हस्ताक्षर अंकित है (संलग्नक-

02)।

ख-धारा-170 द०प्र०सं० के अन्तर्गत नोटिस द्वारा आरोप पत्र न्यायालय में प्रेषित किये जाने की सूचना विवेचक द्वारा दी गयी। जिसकी प्राप्तगी में याची के हस्ताक्षर अंकित है। (संलग्नक-03)।

उक्त के आलोक में प्रकरण की अद्यतन स्थिति निम्नवत है :-

i. नलकूप चालकों की सेवा नियमावली 1953 के नियम 14 के तहत एक माह तक अवैतनिक प्रशिक्षण प्राप्त करने हेतु उत्तर प्रदेश शासन के शासनादेश संख्या/04/2021/1/4/2011-का-4-2021, कार्मिक अनुभाग-4 लखनऊ: 29 अप्रैल 2021 (संलग्नक-04) के अन्तर्गत श्री अमित कुमार यादव के शपथ-पत्र दिनांक-07.08.2020 के क्रम में अवैतनिक प्रशिक्षण के आदेश कार्यालय ज्ञाप सं०-1185/न०ख०मी०/ई-7/ दिनांक 21.8.2020 द्वारा निर्गत करते हुए प्रतिलिपि पुलिस अधीक्षक मीरजापुर को पुलिस वेरिफिकेशन हेतु पृष्ठांकित की गयी।

ii. उक्त आदेश के क्रम में याची ने उपखण्ड-प्रथम, नलकूप खण्ड मीरजापुर में दिनांक 26-8-2020 से दिनांक 25-9-2020 तक प्रशिक्षण प्राप्त किया।

iii. याची के विरुद्ध मु०अ०सं०-44/2020 धारा 147, 323, 504 आई०पी०सी० का अभियोग दिनांक-24.04.2020 को थाना चील्ह जनपद मीरजापुर में पंजीकृत होने की सूचना पुलिस अधीक्षक के पृष्ठांकन आर नम्बर-768/ दिनांक-15.09.2020 द्वारा सूचना प्राप्त हुई।

iv. याची के विरुद्ध पुलिस द्वारा आरोप पत्र दिनांक-16.06.2020, अपर मुख्य न्यायिक मजिस्ट्रेट को प्रेषित किया जा चुका है।

v. याची द्वारा शपथ-पत्र दिनांक 07-08-2020 (संलग्नक-05) विभाग/ खण्ड में हस्तगत कराया। शपथ-पत्र के बिन्दु-3 व 4 में श्री अमित कुमार यादव द्वारा शपथ पूर्वक निम्न सूचना दी गयी :-

"3-मेरे विरुद्ध देश/प्रदेश में किसी भी थाने में आपराधिक कृत्य का कोई वाद प्रचलित/लम्बित नहीं है। (यदि कोई प्रकरण हो तो उसका विवरण संलग्न किया गया है।)

4-मेरे विरुद्ध देश/प्रदेश में किसी न्यायालय में कोई वाद प्रचलित / लम्बित नहीं है।"

7-अपर मुख्य न्यायिक मजिस्ट्रेट, कोर्ट नं०-01, मीरजापुर द्वारा उपलब्ध कराये गये आरोप पत्र के निम्न संलग्नकों से याची को अपराध संख्या-04/2020 अन्तर्गत धारा 147, 323, 504 आई०पी०सी० की जानकारी होने की पुष्टि होती है।

8-उत्तर प्रदेश शासन के शासनादेश संख्या/04/2021/1/4/2011-का-4-2021, कार्मिक अनुभाग-4 लखनऊ: 29 अप्रैल 2021 के बिन्दु संख्या-1 व 2 निम्नवत उद्धृत है :-

(i) राज्य सरकार की किसी भी सेवा के लिए चयनित अभ्यर्थियों के चरित्र एवं पूर्ववृत्त का सत्यापन पूर्ववत ही किया जायेगा, किन्तु नियुक्ति पत्र निर्गमन के प्रकरण को इस प्रकार के सत्यापन के लिए लंबित रखने की आवश्यकता नहीं है। नियुक्ति प्राधिकारी अभ्यर्थी से निर्धारित प्रपत्रों में सत्यापन पत्र एवं स्व:घोषण पत्र प्राप्त कर औपबन्धिक नियुक्ति पत्र निर्गत करेंगे।

प्रत्येक अभ्यर्थी द्वारा उपरोक्तानुसार सत्यापन के विवरणों के साथ इस आशय का स्वःघोषण पत्र भी प्रस्तुत किया जायेगा कि प्रपत्र में दिये गये समस्त तथ्य और विवरण सही हैं। तदनुसार सत्यापन एवं स्वःघोषणा पत्र संबंधी प्रपत्र अनुलग्नक के रूप में संलग्न है।

(ii) औपबंधिक नियुक्ति पत्र में, यह स्पष्ट रूप से उल्लिखित किया जायेगा कि यदि उम्मीदवार का चरित्र एवं पूर्ववृत्त सत्यापित नहीं होता है या उम्मीदवार द्वारा अपने स्वःसत्यापन या घोषणा पत्र में कोई गलत सूचना दी गयी है तो औपबंधिक नियुक्ति पत्र तत्काल निरस्त कर दिया जायेगा और परिणाम स्वरूप अन्य आपराधिक / विधिक कार्यवाही भी की जायेगी।

शासनादेश में दी गयी व्यवस्था के अनुरूप श्री अमित कुमार यादव द्वारा स्वःसत्यापन में गलत सूचना दिये जाने एवं प्रत्यावेदन में पुनः पैरा संख्या-07 में "मुकदमा अपराध संख्या-04/2020 अन्तर्गत धारा-147, 323, 504 आई०पी०सी० की कोई जानकारी प्रार्थी को नहीं है" होने का कथन तथ्यों के विपरीत एवं गलत होने के कारण उत्तर प्रदेश अधीनस्थ सेवा चयन आयोग, लखनऊ को चयन निरस्त करने एवं मुख्य अभियन्ता / अध्यक्ष खण्ड आवंटन समिति द्वारा निर्गत खण्ड आवंटन प्रमाण-पत्र दिनांक-16.03.2020 को निरस्त की संस्तुति करते हुए प्रत्यावेदन निरस्त करते हुए निस्तारित किया जाता है।"

15. The order impugned runs into four pages, however, the first and the second page is dedicated towards the order passed in the earlier spell of litigation, whereas the majority portion of the three pages talks about the proceedings which took place post passing of the order in the Court in the earlier spell of litigation and thereafter the conclusions are there. Importantly, this Court in the earlier spell of litigation in its order dated 19.04.2023 passed in Writ-A No. 13642 of 2020 had noticed the factum of lodging of the first information report on 24.04.2020 and institution of the Original Suit No.19/2007 (Shubh Narain Yadav versus Ramkhilawan and others) and also had also noticed the contentions set-forth by the writ petitioner that there happened to be enmity and the animosity between the first informant and the writ petitioner faction.

16. Notably, here there are certain redeeming features: firstly, pursuant whereto the selections was conducted is of the year 2016 and the writ petitioner was selected and the final result was declared in which the writ petitioner was declared selected on 16.03.2020. Till that time, there was no criminal case pending against the writ petitioner as the incident and the date of occurrence which became the basis of lodging of the first information report is 23.04.2020 and the FIR came to be lodged on 24.04.2020. The said dates are subsequent to the date when the advertisement came to be published and the writ petitioner was selected. Even in the earlier spell of litigation, the writ petitioner was consistent in its stand that the said FIR was

an act of vindication and he was being fixed in that regard. The said aspect of the matter, though he is stated to have been canvassed by the writ petitioner, has not been adverted to. Besides the aforesaid fact, the order impugned shows that the author of the said order was swayed with the fact that it was a case of non-disclosure, but it was the stand of the writ petitioner that he had no knowledge about the said order, though in the order impugned, it has been recited that the writ petitioner had the knowledge about the said order in view of the proceedings under Section 41A of the Cr.P.C., but there is nothing on record when the same was served upon the writ petitioner.

17. In the opinion of the Court, something more was required at the end of the respondent authorities while recording a finding as to when and on which date the said record was available to the writ petitioner. Besides the aforesaid fact, there are two types of categories. First category relates to where those applicants/candidates who disclose about the criminal case, and the second category is those who do not disclose about the criminal case. In the second category, the authorities while exercising their mind have to apply extra cautious in that regard.

18. The principle of law laid down in **Pawan Kumar (supra)** came to be considered in **Ravindra Kumar (supra)**, wherein the following was observed as under:

"27. More recently in Pawan Kumar v. Union of India, 2022 SCC OnLine SC 532, involving appointment to the post of Constable in Railway Protection Force and setting aside the order of discharge due to alleged suppression in the verification form, this Court, after noticing Avtar Singh (Supra) held 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 being 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.

19. Consequently, the appeal succeeds and is allowed. The Judgment of the Division Bench of the High Court dated 17th November, 2015 and the order of discharge dated 24th April, 2015 and dated 23rd December, 2021 are hereby quashed and set aside. The Respondents are directed to reinstate the appellant in service on the post of Constable on which he was selected pursuant to his participation in reference to employment notice no. 1/2011 dated 27th February, 2011. We make it clear that the appellant will not be entitled for the arrears of salary for the period during which he has not served the force and at the same time he will be entitled for all notional benefits, including pay, seniority and other consequential benefits, etc. Necessary orders shall be passed within a period of one month from today. No costs."

19. A bare look of the order impugned shows that the consideration which weighed with the authorities while negating the claim and the entire exercise is not as per the mandate of the law as laid down by the Hon'ble Apex Court.

20. Nonetheless, the authorities were under obligation to also see the overall fact and situation and the circumstances in that regard as well as the timing of the FIR, which is also lacking. So much so, there is no consideration about the Government order dated 28.04.1958 it imports in this regard.

21. At this stage, Sri S.K. Pal, learned Additional Chief Standing Counsel submits that the matter be remitted back to the authority to pass fresh order in that regard.

22. Accordingly, the writ petition is being decided in the following manner:

(a). The impugned order dated 10.11.2023 passed by the Executive Engineer, Tube-well Division Mirzapur, respondent no.4 is set aside.

(b). The matter stands remitted back to pass fresh order strictly in accordance with law within a period of three months from the date of presentation of the certified copy of the order.

23. By doing so, this Court has not accorded joining or posting to the writ petitioner automatically, however, the same shall be subject to the further orders to be passed post remand in that regard.

24. Accordingly, the writ petition stands **disposed of**.

February 9, 2026

Ashu

(Vikas Budhwar,J.)