

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6827 of 2023

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Sonu Kumar Son of Sri Bindeshwar Mahto Resident of Village- Gonhar Nawada, P.O.-
Kharaj Jitwarpur, P.S.- Muffasil, District- Samastipur, Bihar- 848134.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Director General of Police, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Patna.
3. The Additional Director General of Police, (Budget, Appeal and Welfare), Government of Bihar, Patna.
4. The Inspector General of Police, Mithila Region, Darbhanga.
5. The Superintendent of Police, Samastipur.
6. The Deputy Superintendent Police, Samastipur.
7. The Bihar Police Subordinate Service Commission, Through the Secretary, Santosh Mansion, B Block Near RPS Law College, Raghunathpur, Danapur, Patna- 801503.
8. The Secretary, Bihar Police Subordinate Service Commission, Santosh Mansion, B Block Near RPS Law College, Raghunathpur, Danapur, Patna.- 801503.

... .. Respondent/s

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Selection and Appointment---Bihar Police Manual---Rule 673---moot question for determination in present case is, as to whether, the petitioner who was aspiring to join the police force was required to disclose the criminal antecedent while filling up the application form and whether such non-disclosure will disentitle him to continue in the police force, who subsequently was declared successful and had given the joining and worked thereafter?---the stand of the petitioner that he had not disclosed his implication in the criminal case on account of his acquittal prior to initiation of the process of selection in which he applied, is unsustainable---the disciplinary authority has dismissed the petitioner on the ground of non-disclosure of criminal case in the application form without considering that there was omission on the part of the petitioner in application form but he had voluntarily declared it at the time of filling of PM Form No.101----the petitioner, who has claimed himself to be aged about 21 years at the time of submission of on line application form may have committed indiscretion, but indiscretion if not condoned will only lead to brand him as criminal for the rest of his life---the modern approach should be to reform a person instead of branding him

as criminal for the rest of his life---dismissal of the petitioner on the basis of non-disclosure in online application form before he was taken into service could only be said that the petitioner may have erred at the time of submission of online application form to avoid the immediate risk of losing employment opportunity, the petitioner became successful for being selected and before joining the service, he has given correct information at the time of filling of character verification form---impugned order set aside---writ allowed---authorities directed to take corrective measures in accordance with law. (Para-14, 21, 22)

(2022) 1 SCC 1, (2016) 8 SCC 471, (2024) 5 SCC 264, (1999) 1 SCC 246, (2011) 4 SCC 644

.....Relied Upon.

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Nawada, P.O.- Kharaj Jitwarpur, P.S.- Muffasil, District- Samastipur, Bihar-
848134. Petitioner/s

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8. The Secretary, Bihar Police Subordinate Service Commission, Santosh Mansion, B Block Near RPS Law College, Raghunathpur, Danapur, Patna.- 801503.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Kaushik, Advocate.
For the State : Mr. Anil Kumar, SC-8.
For the B.P.S. S.C. : Mr. Sanjay Pandey, Advocate.
Mr. Nishant Kumar Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
C.A.V. JUDGMENT

Date : 20-01-2025

Heard Mr. Kumar Kaushik, learned counsel
appearing on behalf of the petitioner; Mr. Anil Kumar, learned
SC-8 for the State and Mr. Sanjay Pandey, learned counsel along
with Mr. Nishant Kumar Jha, learned counsel for the Bihar
Police Subordinate Service Commission.

2. The petitioner in paragraph no. 1 of the



present writ petition has sought, inter alia, following relief(s),
which is reproduced hereinafter:-

“i. For issuance of an order, direction or a writ of certiorari for quashing and setting aside the order contained in Memo No. 1742 dated 20.06.2022 and the consequential order contained in Memo No. 1620 dated 27.06.2020 whereby and whereunder the petitioner who was appointed Sub- Inspector of Police has been dismissed from service allegedly on the ground that he had suppressed the pendency of criminal case against him in his application form against advertisement number 01/2017.

ii. For issuance of an order, direction or a writ of certiorari for quashing and setting aside the order dated 14.02.2023 whereby and whereunder the competent authority has been pleased to dismiss the appeal of the petitioner against the order of dismissal from service.

iii. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to grant all consequential benefits including reinstatement in service with entire back wages for the period of idleness and all other consequential benefits.”

Brief Facts:

3. An advertisement bearing Advertisement No. 01 of 2017 was published on 16.09.2017 by the Bihar Police Subordinate Service Commission for appointment against 1717 vacancies of Police Sub-Inspector in the Grade Pay of Rs.4200/-. The petitioner being eligible in the terms of the advertisement, filled up his online application form on 11.04.2017. A criminal case was pending against him relating to Samastipur Mufassil P.S. Case No. 291 of 2015 and the information regarding same has not been given in on-line application form. The petitioner had replied that due to inadvertence on the part of the cyber cafe, criminal case was not



mentioned. Preliminary test was conducted on 11.03.2018 and the result of the preliminary examination was published by the Commission on 05.05.2018 in which the petitioner was found successful. The Main examination was conducted on 22.07.2018. The result of main examination was declared on 06.08.2018 in which the petitioner was found successful. Physical Test was conducted from 18.09.2018 to 29.09.2018. The result of Physical Eligibility Test was declared on 09.03.2019 in which the petitioner became successful. The petitioner was called for document verification. He was required to fill up a form under Rule 656 and 673 of Bihar Police Manual for character verification. In the prescribed Column No. 7, he has correctly given the detailed information regarding civil or criminal case by answering in affirmative and had disclosed that Samastipur Mufassil P.S. Case No. 291 of 2015 dated 21.09.2015, is pending against him. Thereafter, vide order dated 02.06.2019, the petitioner was posted at Benipatti Police Station in the District of Darbhanga. In respect of allegation that the petitioner had not disclosed criminal case in the on-line application form so filled by him, he was suspended on 14.04.2020 and was directed to submit his show cause within a period of 7 days. The show cause reply filed by the petitioner was found not convincing. A charge memo contained in Memo



No. 326 dated 28.10.2021 was issued to the petitioner. An inquiry was conducted by the inquiry officer who had submitted his report vide Memo No. 3725 dated 17.11.2021 finding the charges to be true. It has been recorded in the finding that the petitioner had suppressed the information relating to pendency of criminal case against him in the on line application form filled at the time of its submission. A second show cause notice was issued vide Memo No. 2815 dated 31.12.2021. The petitioner filed his reply vide letter dated 01.02.2022 denying the findings of the Inquiry Officer and requested the Disciplinary Authority to make available certain documents so as to file his final show cause reply. In the meantime, learned Sessions Judge, Samastipur in Sessions Trial No. 103 of 2019 acquitted the petitioner vide order and judgment dated 07.05.2022. The petitioner vide letter dated 11.05.2022 requested the Disciplinary Authority to absolve him from the charges. The respondent Disciplinary Authority passed the order dated 27.06.2022, whereby and whereunder, the petitioner was dismissed from service. The petitioner filed an Appeal before the Appellate Authority which was rejected vide order dated 14.02.2023 contained in Memo No. 27 dated 20.02.2023. Aggrieved by the dismissal order and the appellate order, the petitioner has filed the present writ petition.



SUBMISSION ON BEHALF OF THE PETITIONER

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is aggrieved by the order dated 20.06.2022 contained in Memo No. 1742 by which he has been dismissed from service allegedly on the ground that he has suppressed the pendency of criminal case in his application form in terms of the Advt. No. 01/2017. The petitioner has also sought quashing of the order dated 14.02.2023 by which his appeal against order of punishment was rejected. Learned counsel further submitted that it is not in dispute that the petitioner was falsely implicated in Samatipur Mufassil P.S. Case No. 291/2015 dated 21.09.2015 registered for offense under Section 302/34 of the Indian Penal Code in which he faced trial for offence under Sections 302, 364, 120B, 201 read with Section 34 of the IPC. In the F.I.R., the petitioner was named along with his two brothers merely on the basis of suspicion allegedly due to enmity between the informant and the father of the petitioner. He further submitted that on consideration of all evidence in a trial wherein a total of 11 witnesses including doctor and the I.O. were examined, the petitioner has been acquitted. The Learned Trial Court has given a finding that there is no direct or indirect evidence against the accused persons. The order of acquittal dated 07.05.2022 can be



termed to be an honorary acquittal where no evidence was found against the petitioner. Learned counsel informs that the petitioner was 21 years of age at the time of filling up the application form on 04.11.2017 and ought not be condemned for life in view of the fact that he was falsely implicated in the present case. The petitioner qualified in the preliminary, mains and physical test and he was declared successful by the Bihar Police Subordinate Service Commission. He had appeared for character verification and disclosed the pendency of the aforesaid case against him in requisite form. The disclosure was made on 30.04.2019 and the authorities being satisfied by the disclosure of the criminal case, the petitioner was appointed on 29.05.2019. Thereafter, the petitioner was posted at Benipatti Police Station in the District of Darbhanga on 02.06.2019. Learned counsel submitted that the respondents had found the petitioner suitable for appointment having declared the correct information. Learned counsel next submitted that apart from the aforesaid case, there is no other criminal antecedent against the petitioner. Learned counsel further informs that the inquiry report dated 17.11.2021 merely finds the charges to be true by recording a finding that the petitioner had suppressed information relating to pendency of criminal case in the application form. The Inquiry officer has not considered any



other fact as required by the law laid down by the Hon'ble Supreme Court in the case of **Avtar Singh Vs. Union of India and Others (2016) 8 SCC 471**. The order of acquittal was recorded on 07.05.2022 and the same was communicated to the Disciplinary Authority vide letter dated 11.05.2022 requesting them to absolve the petitioner from the charges. Despite the same, the Disciplinary Authority passed the impugned order on 20.06.2022 dismissing the petitioner. The Disciplinary Authority ought to have considered that the acquittal of the petitioner was honourary and found suitable for appointment to the post because his character was otherwise not found to be unsuitable for employment in police force having disclosed the pendency of criminal case before his appointment. Petitioner cannot be said to have suppressed material information for getting employment in as much as the disclosure was made before the appointment order was issued. Learned counsel further submitted that the Disciplinary Authority has not considered that the petitioner was merely 21 years of age at the time of submission of application form and may have erred due to the immediate risk of losing employment opportunity, but the same will not constitute misconduct in view of the conduct of the petitioner who at the time of filling of the Character Verification Form has made disclosure of the criminal case



against him.

5. Learned counsel in above background submitted that the issue framed by this Court vide order dated 03.12.2024 can only be answered in affirmative that the charge don't constitute misconduct in so far as the disclosure relating to the criminal case which inadvertently could not be made in the on line application form in light of the Advertisement No. 01/2017 and in support, he has place reliance to judgment of the Apex Court rendered in **Avtar Singh (Supra), Ravindra Kumar Vs. State of Uttar Pradesh and Others (2024) 5 SCC 264** and **Commissioner of Police and Others Vs Sandeep Kumar (2011) 4 SCC 644** and seeks setting aside and quashing of the order contained in Memo No. 1742 dated 20.06.2022 and communicated vide Memo No. 1620 dated 27.06.2022 and the appellate order dated 14.02.2023 and to reinstate the petitioner in service with all consequential benefit.

SUBMISSION ON BEHALF OF THE RESPONDENTS

6. *Per contra*, learned counsel appearing on behalf of the respondents submitted that though the petitioner has disclosed the criminal case at the time of character verification after his selection, but at the very initial stage, while he had filled up the online application form, he had not disclosed the criminal case being Samastipur Mufassil P.S. Case No. 291 of



2015 dated 21.09.2015 pending against him and non-disclosure of the criminal case will amount to misconduct to have been committed by the petitioner.

7. This Court during the course of argument had reminded the learned counsel appearing on behalf of the State to address in respect of the issue as framed vide order dated 03.12.2024, as to whether incorrect disclosure made in the application form in light of the Advertisement No. 01 of 2017 dated 16.09.2017 will amount to misconduct.

8. In reply, Mr. Anil Kumar, learned counsel appearing on behalf of the State has placed reliance on paragraph Nos. 15 and 16 of the counter affidavit, which are reproduced hereinafter:

“15. That from perusal of the Memo No. 821/D.G.P. (H.Q.), Bihar, Patna, dated 21.05.2019 in light of Rule 673 of the Bihar Police Manual 1978, it transpires that if chargesheet has/have been submitted against any of the candidate, then the said candidate will not be eligible for his appointment.

16. That thereafter Mithila Regional Order No.294/2022, vide Memo No.1742/General Section, dated 20.06.2022 of Office of the I.G. of Police, Darbhanga Region was issued under the signature of the I.G. of Police, Darbhanga Region by which the petitioner was removed/relieved from the Police Service using the power given under Rule 668 of the Bihar Police Manual, 1978.”

9. Learned counsel referring to Rule 673 of the Bihar Police Manual, 1978 submitted that the same provides for verification roll to be prepared in the prescribed Form P.M. 101



and submitted that literate persons like petitioner is expected to fill up in the verification form and sign and answer himself. In the present case, the petitioner has not made correct disclosure in the online form and, as such, the same will amount to misconduct. Learned counsel further referring to column no. 7 of Form P.M.101 informs this Court that the petitioner has given incorrect information by not mentioning the criminal case pending against him, however, he admits that in column no. 7. The petitioner has given the reference of criminal case as mentioned therein. Learned counsel further submitted that allegation under section 302/34 of the Indian Penal Code is serious offense and non disclosure of the said F.I.R. being Samastipur Mufassil P.S. case no.291 of 2015 in column no. 7 will amount to misconduct and removal of the petitioner from service is justified in the eye of law.

10. Mr. Sanjay Pandey, learned counsel appearing on behalf of the Bihar Police Sub-ordinate Service Commission, supporting the argument advanced on behalf of the State submitted that the petitioner has not denied the fact that he has not made any disclosure in the online form in respect of criminal case or whether he is accused in any criminal case or not as required in the declaration form, who was aspiring at the relevant point of time to be inducted into disciplined service and



the suppression will amount to misconduct. He clarified that the suppression of vital information from the recruiting agency or from the appointing authority and after getting knowledge of the same, the petitioner has rightly been removed from the service. Learned counsel further submitted that the case relied upon by the petitioner is not relevant so far as the fact of the present case is concerned.

11. Learned counsel in support has relied upon the judgment of the Apex Court in the case of **Union of India and Others Vs. Methu Meda, reported in (2022) 1 SCC 1** and has relied on paragraph nos. 20 and 21 of the said judgment, learned counsel submitted that the Apex Court, after considering several decisions, has concluded that the petitioner who was aspiring to join the police service, must be a person of utmost rectitude and have impeccable character and integrity and in this background, he submitted that the person like petitioner having a criminal antecedent would not be fit in the category of disciplined force. Paragraph nos. 20 and 21 of the aforesaid judgment are reproduced hereinafter:

“20. In view of the aforesaid, it is clear the respondent who wishes to join the police force must be a person of utmost rectitude and have impeccable character and integrity. A person having a criminal antecedents would not be fit in this category. The employer is having right to consider the nature of acquittal or decide until he is completely exonerated because even a possibility of his taking to the life of crimes poses a threat to the discipline of



the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee and the decision of the Committee would be final unless mala fide. In Pradeep Kumar [State (UT of Chandigarh) v. Pradeep Kumar, (2018) 1 SCC 797 : (2018) 1 SCC (Cri) 504 : (2018) 1 SCC (L&S) 149] , this Court has taken the same view, as reiterated in Mehar Singh [State v. Mehar Singh, (2013) 7 SCC 685 : (2013) 3 SCC (Cri) 669 : (2013) 2 SCC (L&S) 910] . The same view has again been reiterated by this Court in Raj Kumar [State v. Raj Kumar, (2021) 8 SCC 347 : (2021) 2 SCC (L&S) 745] .

21. As discussed hereinabove, the law is well-settled. If a person is acquitted giving him the benefit of doubt, from the charge of an offence involving moral turpitude or because the witnesses turned hostile, it would not automatically entitle him for the employment, that too in disciplined force. The employer is having a right to consider his candidature in terms of the circulars issued by the Screening Committee. The mere disclosure of the offences alleged and the result of the trial is not sufficient. In the said situation, the employer cannot be compelled to give appointment to the candidate. Both the Single Bench and the Division Bench of the High Court have not considered the said legal position, as discussed above in the orders [Union of India v. Methu Meda, 2013 SCC OnLine MP 10701] ' [Methu Meda v. Union of India, Writ Petition No. 3897 of 2013, order dated 27-9-2013 (MP)] impugned. Therefore, the impugned orders passed by the learned Single Judge of the High Court in Methu Meda v. Union of India [Methu Meda v. Union of India, Writ Petition No. 3897 of 2013, order dated 27-9-2013 (MP)] and the Division Bench in Union of India v. Methu Meda [Union of India v. Methu Meda, 2013 SCC OnLine MP 10701] are not sustainable in law, as discussed hereinabove."

12. Learned counsel further submitted that relying on the aforesaid judgment, a co-ordinate Bench of this Court in case of **Ravi Kumar Singh Vs. State of Bihar** vide order dated **11.10.2022** passed in **CWJC No. 3805 of 2021**, has not interfered in any manner with the dismissal order in respect of the petitioner of the said writ petition. Learned counsel has relied on paragraph nos. 14, 16, 17 and 18 of the aforesaid



judgment.

ANALYSIS AND CONCLUSION: -

13. Heard the parties.

14. The moot question which arises for determination is, as to whether, the petitioner who was aspiring to join the police force was required to disclose the criminal antecedent while filling up the application form and whether such non-disclosure will disentitle him to continue in the police force, who subsequently was declared successful and had given the joining and worked thereafter? Secondly, in such circumstances, whether this Court can interfere in any manner with the dismissal order in respect of the petitioner?

15. The impeccable character and integrity is the backbone of disciplined force and in this regard law has already been declared by the Apex Court in the case of **Methu Meda (supra)** and admitting the position regarding non-disclosure by the petitioner, this Court takes into consideration the relevant provision contained in Rule 673 of the Bihar Police Manual, which reads as follows:

*"673.(a) Verification roll.-- A verification roll shall be prepared in P.M. Form no.101 and sent for verification to the home district of every candidate, for the post of Sub-Inspector, Reserve Sub-Inspector and Constable or any ministerial post.
(b) In the case of semi-literate men such as those recruited under relaxation of minimum*



educational qualification in rule 663 the questions on the roll shall be put to the candidate by the reserve officer, or an officer nominated for the purpose by the Superintendent, and that officer shall write down the answers, sign these with his full signature and produce these, together with the candidate, before the Superintendent. Literate persons shall fill in and sign the answers themselves. The Superintendent, if satisfied with the answers, will sign the roll, have the impression of the man's left thumb taken in the space provided and pass an order for his enlistment.

(c) Enlistment orders.--The order for enlistments shall then be entered in the order book, the service book shall be prepared and the verification roll dispatched to the Superintendent of the district in which the recruits home is situated. The number and date of dispatch shall be noted in the proper place in the service-book, and on the return of the roll with a report that the man bears a good character and has made a truthful statement as to his antecedents, the Superintendent shall initial this entry, have the necessary entry made in the service-book and order the verification roll to be filed. If the character of the man is reported to be bad or his statement false, he shall be removed from the force."

16. The P.M. Form No. 101, requires an applicant like the petitioner to disclose as to whether he has ever been accused in a criminal or civil case or has ever been in prison after being selected. Clause 7 of the Form reads as follows:

"7. Whether applicant has ever been accused in a criminal or civil case or has ever been in prison. Give details."

17. The requirement of disclosure of implication in the criminal case is apparent from plain reading of the Rule 7 of the requisite form. It is also apparent from bare perusal of



the above quoted Rule 673(c) that if disclosure/statement made in the verification form is found to be false or character reported to be bad, then the consequence of removal from the Force is explicit under the rules. Therefore, the stand of the petitioner that he had not disclosed his implication in the criminal case on account of his acquittal prior to initiation of the process of selection in which he applied, is clearly unsustainable. Clause 7 of P.M. Form no.101 does not require disclosure of only pending criminal case, but requires disclosure of the fact whether applicant "has ever been" accused in a criminal or civil case. The Rule is unambiguous in its requirement and there is no basis for any applicant to understand or arrive at an opinion that if accusation in a criminal case has led to his acquittal, then the same is not required to be disclosed.

18. Moreover, I find it apt to observe that the petitioner was disentitled for enlistment for not making a truthful statement regarding his antecedents; this Court would observe that there was sufficient material to conclude that he was a man of bad character at the first instant for the purposes of Rule 673(c) of the Manual. However when I proceeded to analyze the facts and circumstances in view of the observation made in paragraph no. 38.1 and 38.4.3 of Avtar Singh (supra), wherein, it



has been held that the 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 the required information and if acquittal has already been recorded in a case involving moral turpitude or offence of heinous/ serious nature on technical grounds and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts and available as to antecedents, and may take appropriate decisions as to the continuance of the employee.

19. Following the law laid down in Avtar Singh (Supra), the Apex Court in paragraph nos. 22, 24 and 25 in the case of ***Ravindra Kumar v. State of U.P.***, reported in, **(2024) 5 SCC 264**, reiterated the principles laid down in Paragraph Nos. 34 to 38 in Avtar Singh (supra) and has observed, *inter alia*, is as follows:

22. The law on this issue is settled by a three-Judge Bench of this Court in Avtar Singh [Avtar Singh v. Union of India, (2016) 8 SCC 471 : (2016) 2 SCC (L&S) 425] . Paras 34, 35, 36 and 38, which sets out the conclusions, are extracted hereinbelow : (SCC pp. 506-508)

“34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should



be based upon objective criteria on due consideration of all relevant aspects.

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.

36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.

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.”
(emphasis supplied)

24. *Avtar Singh v. Union of India, (2016) 8 SCC 471, also noticed the judgment in Commr. of Police v. Sandeep Kumar, (2011) 4 SCC 644 . In Sandeep Kumar (supra), this Court set out the story of the character “Jean Valjean” in Victor Hugo's novel Les Miserables, where the character was branded as a thief for stealing a loaf of bread for his hungry family. It also discussed the classic judgment of Lord Denning in Morris v. Crown Office and concluded as follows :-*

“10. ... 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 325/34IPC. 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.”

25. *Thereafter, in Avtar Singh (supra) dealing with Sandeep Kumar (supra), this Court observed as under :*

“24. ... 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.”

20. The Apex Court faced with the similar facts and circumstances of the case as that of the facts of the present case has taken notice in entirety and has observed in para 5 in case of ***Commr. of Police v. Dhaval Singh***, reported in, (1999) 1



SCC 246, which is reproduced hereinafter :-

5. That there was an omission on the part of the respondent to give information against the relevant column in the Application Form about the pendency of the criminal case, is not in dispute. The respondent, however, voluntarily conveyed it on 15-11-1995 to the appellant that he had inadvertently failed to mention in the appropriate column regarding the pendency of the criminal case against him and that his letter may be treated as "information". Despite receipt of this communication, the candidature of the respondent was cancelled. A perusal of the order of the Deputy Commissioner of Police cancelling the candidature on 20-11-1995 shows that the information conveyed by the respondent on 15-11-1995 was not taken note of. It was obligatory on the part of the appellant to have considered that application and apply its mind to the stand of the respondent that he had made an inadvertent mistake before passing the order. That, however, was not done. It is not as if information was given by the respondent regarding the inadvertent mistake committed by him after he had been acquitted by the trial court — it was much before that. It is also obvious that the information was conveyed voluntarily. In vain, have we searched through the order of the Deputy Commissioner of Police and the other record for any observation relating to the information conveyed by the respondent on 15-11-1995 and whether that application could not be treated as curing the defect which had occurred in the Form. We are not told as to how that communication was disposed of either. Did the competent authority ever have a look at it, before passing the order of cancellation of candidature? The cancellation of the candidature under the circumstances was without any proper application of mind and without taking into consideration all relevant material. The Tribunal, therefore, rightly set it aside. We uphold the order of the Tribunal, though for slightly different reasons, as mentioned above. (Emphasis supplied)

21. Following the observation and law laid down



by the Apex Court, the petitioner, who has claimed himself to be aged about 21 years at the time of submission of on line application form may have committed indiscretion, but indiscretion if not condoned will only lead to brand him as criminal for the rest of his life. The Apex Court again reiterated the said principle in the case of **Commissioner of Police and Ors. Vs. Sandeep Kumar**, reported in **(2011) 4 SCC 644** wherein also, it has been held that “modern approach should be to reform a person instead of branding him as a criminal all his life”, I find it gainful to reproduce Paragraph Nos. 2 to 12 of the said judgment.

“2. The respondent herein, Sandeep Kumar applied for the post of Head Constable (Ministerial) in 1999. In the application form it was printed:

“12(a) Have you ever been arrested, prosecuted, kept under detention or bound down/fined, convicted by a court of law for any offence, debarred/disqualified by any Public Service Commission from appearing at its examination/selection or debarred from any examination, rusticated by any university or any other education authority/institution.”

Against that column the respondent wrote: “No”.

3. It is alleged that this is a false statement made by the respondent because he and some of his family members were involved in a criminal case being FIR No. 362 under Sections 325/34 IPC. This case was admittedly compromised on 18-1-1998 and the respondent and his family members were acquitted on 18-1-1998.

4. In response to the advertisement issued in January 1999 for filling up of certain posts of Head



Constables (Ministerial), the respondent applied on 24-2-1999 but did not mention in his application form that he was involved in the aforesaid criminal case. The respondent qualified in all the tests for selection to the post of temporary Head Constable (Ministerial). On 3-4-2001 he filled the attestation form wherein for the first time he disclosed that he had been involved in a criminal case with his tenant which, later on, had been compromised in 1998 and he had been acquitted.

5. On 2-8-2001 a show-cause notice was issued to him asking the respondent to show cause why his candidature for the post should not be cancelled because he had concealed the fact of his involvement in the aforesaid criminal case and had made a wrong statement in his application form. The respondent submitted his reply on 17-8-2001 and an additional reply but the authorities were not satisfied with the same and on 29-5-2003 cancelled his candidature.

6. The respondent filed a petition before the Central Administrative Tribunal which was dismissed on 13-2-2004. Against that order the respondent filed a writ petition which has been allowed by the Delhi High Court and hence this appeal.

7. The learned counsel for the appellants has submitted that the respondent should have disclosed the fact of his involvement in the criminal case even if he had later been acquitted. Hence, it was submitted that his candidature was rightly cancelled.

8. We respectfully agree with the Delhi High Court 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:*

“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 [(1970) 2 QB 114 : (1970) 2 WLR 792 : (1970) 3 All ER 1079 (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.

22. In so far as the facts of the present case is concerned, the disciplinary authority has dismissed the petitioner on the ground of non-disclosure of criminal case in the application form without considering that there was omission on the part of the petitioner in application form but had voluntarily declared at the time of filling of PM Form No.101. In this regard, the Apex Court in Avtar Singh (Supra), dealing with Sandeep Kumar (Supra), in paragraph no. 24, has



made it clear that the suppression related to a case when the age of the applicant was about 20 years, in the present case 21 years and at such age, people often commit indiscretion and such indiscretion may often be condoned. The modern approach should be to reform a person instead of branding him as criminal for the rest of his life. I find that in light of the above law laid down by the Apex Court in paragraph no. 24 in Avtar Singh (Supra), the dismissal of the petitioner on the basis of non-disclosure in online application form before he was taken into service could only be said that the petitioner may have erred at the time of submission of online application form to avoid the immediate risk of losing employment opportunity, the petitioner became successful for being selected and before joining the service, he has given correct information at the time of filling of character verification form.

23. This Court, therefore, is of the opinion that the impugned order contained in Memo No. 1742 dated 20.06.2022 and communicated vide Memo No. 1620 dated 27.06.2022 and the appellate order dated 14.02.2023 require interference considering the admitted position regarding suitability of the petitioner's candidature by the appointing authority for appointment of the petitioner on the post of Sub-Inspector of



Police is based on his eligibility and informations contained in Rule 673(c) of the Police Manual.

24. In view of the discussions and observations made hereinabove in the facts and circumstances of the case and in light of the law laid down by the Apex Court in aforementioned judgments, the order contained in Memo No. 1742 dated 20.06.2022 and communicated vide Memo No. 1620 dated 27.06.2022 and the appellate order dated 14.02.2023 are hereby set aside and quashed.

25. The authorities are directed to take corrective measures in accordance with law.

26. The writ petition stands allowed.

27. There shall be no order as to costs.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	AFR
CAV DATE	20.12.2024
Uploading Date	20.01.2025
Transmission Date	NA

