

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12746 of 2021

Umesh Kumar Chaudhary, Son of Mahavir Chaudhary, Resident of Village-
Ghuriyawan, Wazirganj, P.O.-Singhaura, P.S.-Wazirganj, District-Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Inspector General of Police, Magadh Range, Gaya.
3. The Deputy Inspector General of Police (Karmik), Bihar, Patna.
4. The Deputy Inspector General of Police (Abhiyaan), Special Work Force, Bihar, Patna.
5. The Special Work Officer, Bihar Police Sub-Ordinate Services Commission, Bihar, Patna.
6. The Senior Superintendent of Police, Gaya.
7. The Deputy Superintendent of Police (Home), I.G. Office, Magadh Range, Gaya.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Advocate
For the State	:	Mr. Suman Kumar Jha, AC to AAG-3
For the BPSSC	:	Mr. Vivek Anand Amritesh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT

Date : 27-03-2025

This Court has heard Mr. Ranjeet Kumar, learned Advocate for the petitioner, Mr. Suman Kumar Jha, learned Advocate for the State and Mr. Vivek Anand Amritesh, learned Advocate of the Bihar Police Sub-Ordinate Services Commission (for short ‘the Commission’), at length.

2. The petitioner is aggrieved with the order dated 22.01.2021 as contained in Memo No. 22 dated 25.01.2021



passed by the respondent no.4, the Deputy Inspector General, Special Work Force, Bihar, Patna, whereby the petitioner has been declared ineligible for appointment to the post of Police Sub Inspector on account of concealment of criminal case(s) in his acknowledgment to be filled up along with the application form.

3. The facts, which are germane for adjudication of the issue posed before this Court, in brief, are that the petitioner who was an aspirant for the post of Assistant Sub Inspector has submitted his application in response to the Advertisement No. 01/2017 issued by the Commission. In the application form, an acknowledgment was required to be filled up by making certain declaration regarding criminal case(s). Admittedly, the petitioner has filled up the same in the following manner:-

A.	Whether any FIR or Criminal Case(s) has ever been registered against you?	No
B.	Whether any criminal complaint case or FIR or Criminal case(s) is pending against you in court of law or with police at the time of submitting the application form?	No
C.	Have you ever been arrested/detain ed in any criminal case(s)?	No
D.	Have you ever been tried & convicted or acquitted by a court of law in any criminal case(s)?	No
E.	Have you ever been tried & convicted by the court by filling any bond for good behaviours etc.	No

4. The petitioner successfully passed the preliminary



and mains examination and also got qualified in the physical test. Having been declared successful in all the afore-noted examination/physical evaluation test(s), the petitioner was selected on the post of Assistant Sub Inspector vide Memo No. 211/Commission dated 09.03.2019 issued under the signature of of the Special Works Officer of the Commission with a direction to the petitioner to ensure his joining along with all requisite certificates in original, besides photographs and identity proof.

5. During the course of verification, on 27.04.2019, the petitioner disclosed about two criminal cases viz. Wazirganj P.S. Case No. 50 of 2011 registered for the offences punishable under Sections 447, 341, 307, 504 and 354/34 of the Indian Penal Code, which was later on ended in the acquittal of the petitioner, vide judgment dated 30.08.2019 passed by the learned Additional District and Sessions Judge-VIII, Gaya in Sessions Trial No. 154 of 2016. Another case, which was disclosed by the petitioner was Wazirganj P.S. Case No. 111 of 2019 registered for the offences punishable under Sections 341, 323, 354 and 504/34 of the Indian Penal Code, wherein he was not arrayed as an accused. However, his name was transpired in the course of investigation but the final form was submitted vide Final Form No.127/2019 dated 06.07.2019, finding the case not



true against the petitioner. The copy of the judgment and the final form are marked as Annexure-6 series to the writ petition. The petitioner submitted his joining on 27.05.2019 along with the declaration form. However, subsequent thereto, the Deputy Superintendent of Police (Home), I.G. Office, Magadh Range, Gaya vide Memo No.1412 dated 03.09.2019 kept hold the joining of the petitioner till the final disposal of the criminal case(s) by the competent court of jurisdiction.

6. A report was called for from the Police Inspector, Gaya, who in turn, submitted a report suggesting no role of the petitioner in the afore-noted criminal case(s). The respondent no.4, for further clarification, vide letter no. 95 dated 27.08.2020, directed the Superintendent of Police, Gaya to make available the exact status of the case along with a fresh character verification report. Pursuant thereto, it has been apprised through a fresh character verification report that the petitioner has already been acquitted in Wazirganj P.S. Case No. 50 of 2011 vide judgment dated 30.08.2019, besides the report in connection with Wazirganj P.S. Case No. 111 of 2019 wherein a final report has been submitted by the Investigating Officer, which was duly accepted by the jurisdictional court.

7. The matter had been placed before the respondent



no.4, who finally by the impugned Memo No. 22 dated 25.01.2021, cancelled the candidature of the petitioner owing to concealment of facts in the acknowledgment form and found ineligible for the post of Assistant Sub Inspector.

8. Mr. Ranjeet Kumar, learned Advocate for the petitioner, while questioning the impugned order has contended that admittedly at the time of submission of the final form with the acknowledgment, the petitioner could not have been able to mention about the criminal antecedent, but the same was an inadvertent mistake on account of he being not acquainted with the computer application. Moreover, during the course of character verification, it is the petitioner, who voluntarily disclosed about the two criminal cases, which resulted into calling for a fresh character verification report. After thorough verification, a fresh character verification report was submitted, wherein it was clearly indicated that the petitioner has already been acquitted with respect to Wazirganj P.S. Case No. 50 of 2011 and so far as Wazirganj P.S. Case No. 111 of 2019 is concerned, final report has been submitted, which was duly accepted by the jurisdictional court, whereas no cognizance for the offences alleged has been taken against the petitioner. The petitioner has voluntarily disclosed about the criminal case(s)



and, as such, said omission may not be considered as concealment of facts rather the same occurred due to lack of proper knowledge of computer.

9. Referring to the judgment passed in Wazirganj P.S. Case No. 50 of 2011 giving rise to Sessions Trial No. 154 of 2016, learned Advocate for the petitioner further contended that the prosecution has failed to prove its case beyond all reasonable doubt against the petitioner and thus he was acquitted of all the charges. Moreover, the case is of trivial nature in relation to an alleged scuffle, which took place owing to unauthorized grazing of cattle in the field of the petitioner's family. So far Wazirganj P.S. Case No. 111 of 2019 is concerned, that also relates to an offence of trivial nature; and the case has not been found true.

10. Adverting to the aforesaid facts, heavy reliance has been placed on the decisions of the Apex Court in the cases of **Avtar Singh v. Union of India and Others [(2016) 8 SCC 471]**, **Commissioner of Police and Others v. Sandeep Kumar [(2011) 4 SCC 644]**, **Commissioner of Police Delhi and Another v. Dhaval Singh [(1999) 1 SCC 246]**, **Rajasthan Rajya Vidyut Prasaran Nigam Ltd. v. Anil Kanwariya [(2021) 10 SCC 136]**, **Pawan Kumar v. Union of India**



[(2023) 12 SCC 317] and Ravindra Kumar v. State of UP and Others [(2024) 5 SCC 264].

11. While summing up the argument(s), learned Advocate for the petitioner has also taken this Court through the decision rendered by the learned co-ordinate Bench of this Court in the cases of **Sonu Kumar v. The State of Bihar and Others [C.W.J.C. No. 6827 of 2023]** and **Rakesh Kumar Singh v. The State of Bihar and Others [C.W.J.C. No. 15943 of 2023]** and contended that in identical facts where the candidate has failed to disclose the particulars of criminal case which he was facing at the time of submission of the Form but subsequently he voluntarily declared at the time of filling up the Character Verification Form and PM Form No. 101, the Court categorically held that rejection of the candidature of a candidate and/or dismissal of the petitioner is unsustainable, as at least he has given correct information at the time of filling up the Character Verification Form after placing reliance of the Apex Court's decision rendered in the case of **Avtar Singh (supra)** and **Ravindra Kumar (supra)**.

12. *Per contra*, learned Advocates for the State as well as the Commission while dispelling the contention of the petitioner, strenuously argued that recruitment to the police



force requires a higher standard of integrity and transparency. Any misrepresentation or concealment of facts undermines public trust and the credibility of the police force. Rule 673 of the Bihar Police Manual mandates any suppression or misrepresentation of facts during the recruitment process, particularly in matters related to criminal antecedent(s), is considered a grave misconduct and a disqualification for appointment. Rule 673 further emphasizes that candidate(s), who fail to meet the highest standards of integrity and honesty during the recruitment process cannot be considered suitable for service in the police force. The petitioner's deliberate concealment of material facts, as detailed earlier, clearly contravenes this rule. It is the admitted fact that the petitioner failed to disclose his criminal antecedent at the time of submission of the application form with acknowledgment and, as such, suppression of criminal antecedent at the hands of the petitioner cannot be ruled out.

13. Placing reliance upon **Avtar Singh** (supra), learned Advocate for the respondents vehemently contended that any suppression or misrepresentation of facts in recruitment process is a valid ground for disqualification irrespective of the final outcome of the criminal cases. Rule 668 of the Bihar



Police Manual mandates truthfulness in disclosure through character verification and emphasizes that any false declaration regarding criminal antecedents shall render a candidate ineligible for appointment. Further reliance has also been placed on a decision of the Apex Court in the case of **State of Madhya Pradesh v. Parvez Khan [(2015) 2 SCC 591]**, wherein the learned Court emphasized the importance of character verification in public employment. Referring to a Bench decision of this Court in **C.W.J.C. No. 10560 of 2019 [The Union of India and Others v. Bindeshwari Prasad]**, it is submitted that the learned Court upheld the rejection of a candidate, who failed to disclose material facts during recruitment.

14. Further reliance has been placed on a decision rendered by the two Judges Bench of the Apex Court in the case of **Rajasthan Rajya Vidyut Prasaran Nigam Limited and Another v. Anil Kanwariya [(2021) 10 SCC 136]**. Taking this Court through the afore-noted decision, it is vehemently contended that the question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at



the initial stage of the employment, i.e., while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. The Court further observed that an employee cannot claim the appointment and/or continue to be in service as a matter of right when he obtained the appointment/service by suppressing material fact regarding his involvement in criminal case.

15. Adverting to the aforesaid facts and the submissions, the learned Advocates concluded their arguments that the impugned order cancelling the candidature of the petitioner is in conformity with the Bihar Police Manual and all the more fraud vitiates every solemn acts.

16. This Court has given anxious consideration to the submissions advanced by the learned Advocates for the respective parties and also meticulously perused the materials available on record.

17. True it is that fraud avoids all judicial acts ecclesiastical or temporal. The Hon'ble Supreme Court in the case of **Devendra Kumar v. State of Uttaranchal and Others**



[(2013) 9 SCC 363], has observed that the pendency of a criminal case/proceeding is different from suppressing the information of such pendency. The case pending against a person might not involve moral turpitude but suppressing of this information itself amounts to moral turpitude. It is further observed that the information sought by the employer if not disclosed as required, would definitely amount to suppression of material information and in that eventuality, the service becomes liable to be terminated, even if there had been no further trial or the person concerned stood acquitted/discharged. Time and again, the Court has emphasized that dishonesty should not be permitted to bear the fruit and benefit those persons who have defrauded or misrepresented themselves. In such circumstances the Court should not perpetuate the fraud by entertaining petitions on their behalf.

18. In the case of **S.P Chengalvaraya Naidu vs Jagannath [(1994 1 SCC 1)]**, the Hon'ble Supreme Court has made it clear that where an applicant gets an office by misrepresenting the facts or playing fraud upon the competent authorities, such an order cannot be sustained in the eyes of law.

19. Now, the question for consideration before this Court is in a limited bound as to whether the action of the



petitioner in not disclosing the pendency of the criminal case(s)/criminal antecedent at the time of filling of the application form along with the acknowledgment, in the facts of the case in hand, is said to be a concealment of material facts or misrepresentation of facts during the recruitment process, constituting a grave misconduct warranting disqualification of appointment.

20. Before coming to the issue as formulated hereinabove, it would be pertinent to summarize the legal position settled by the Apex Court in various rulings.

21. In the case of **Jainendra Singh v. State of U.P. Tr. Prinl.Sec.Home and Others [(2012) 8 SCC 748]**, the Court while emphasizing the need of character verification has held that *“the purpose of calling for information regarding involvement in any criminal case or detention or conviction is for the purpose of verification of the character/antecedents at the time of recruitment and suppression of such material information will have clear bearing on the character and antecedents of the candidate in relation to his continuity in service. Verification of the character and the antecedent is important criteria to test whether the selected candidate is suitable to the post under the State and on account of his*



antecedents, the appointing authority if finds it not desirable to appoint a person to a disciplined force can it be said to be unwarranted.”

22. In the case of **Avtar Singh** (supra), the Hon'ble Supreme Court painstakingly enunciated a guideline to be followed by the Courts while considering the identical nature of challenge. The Court having observed that 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. The Court after reconciling all the situation summarized and concluded in para 38 of the decision, *inter alia*, that 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. 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 recourse appropriate to the case may be adopted. 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. The Court further emphasized that 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.

23. While reiterating the decision afore-noted, the Hon'ble Supreme Court in the case of **Ravindra Kumar** (supra), has observed as follows:-

“28. In Mohammed Imran vs. State of Maharashtra and Others, (2019) 17 SCC 696, no doubt, a case where a candidate made the disclosure of criminal case, this Court speaking through Navin Sinha, J. made the following telling observation which resonates with the hard realities of everyday existence:

“5. Employment opportunities are a scarce commodity in our country. Every advertisement invites a large number of aspirants for limited number of vacancies. But that may not suffice to invoke sympathy



for grant of relief where the credentials of the candidate may raise serious questions regarding suitability, irrespective of eligibility. Undoubtedly, judicial service is very different from other services and the yardstick of suitability that may apply to other services, may not be the same for a judicial service. But there cannot be any mechanical or rhetorical incantation of moral turpitude, to deny appointment in judicial service simpliciter. Much will depend on the facts of a case. Every individual deserves an opportunity to improve, learn from the past and move ahead in life by self-improvement. To make past conduct, irrespective of all considerations, an albatross around the neck of the candidate, may not always constitute justice. Much will, however depend on the fact situation of a case.”

29. We have also kept in mind the recent judgment of this Court in *Satish Chandra Yadav v. Union of India* [*Satish Chandra Yadav v. Union of India*, (2023) 7 SCC 536 : (2023) 2 SCC (L&S) 43] and the broad principles set out by this Court in para 93, especially, paras 93.1, 93.3 and 93.7. Even the broad principles set out therein recognise that *each case* should be scrutinised thoroughly by the public employer concerned and the Court is obliged to examine whether the procedure of enquiry adopted by the authority concerned was fair and



reasonable. *Avtar Singh* [*Avtar Singh v. Union of India*, (2016) 8 SCC 471 : (2016) 2 SCC (L&S) 425] in para 38.2 has held that while passing the order of cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information. Further, in para 38.4.3 of *Avtar Singh* [*Avtar Singh v. Union of India*, (2016) 8 SCC 471 : (2016) 2 SCC (L&S) 425] the principle that, in case of suppression or false information of involvement of criminal case, where acquittal has already been recorded, the employer can still consider all relevant facts available as to antecedents and may take appropriate decision as to the continuance of the employee.”

24. In the case of **Umesh Chandra Yadav v. Northern Railway [(2022) 14 SCC 244]**, the Court has further observed that the yardstick as formulated in the case of **Avtar Singh** (supra) has to be applied dependent upon the nature of the post, nature of duties, impact of suppression on suitability has to be considered by the competent authority after giving due diligence of various aspects at the given time and no hard and fast rule of thumb can be laid down in this regard.

25. In **Satish Chandra Yadav v. Union of India and Others [(2023) 7 SCC 536]**, the Apex Court in no uncertain terms has held that even in case where the employee has made



declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case does not automatically entitle a candidate for appointment to the post. It would still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable for appointment to the post. In any case, if it is found that the employee had suppressed or given false information in regard to matters which had a bearing on his fitness or suitability to the post, he could be terminated from the service.

26. Indubitably, the impeccable character and integrity is *sine qua non* to be inducted in a disciplined force, which compelled the legislation to enact Rule 673 in 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."

27. Bare reading of the afore-noted prescriptions, this Court has no hesitation to hold that any suppression or misrepresentation of facts during the recruitment process,



particularly in matters related to criminal antecedent is considered as grave misconduct and if a candidate failed to meet the higher standard of integrity and honesty during the recruitment process cannot be considered suitable for service in the police force.

28. Similar prescriptions has also been enunciated under Rule 668 of the Bihar Police Manual, which mandates character verification with a clear stipulation that in case any false declaration regarding criminal antecedent is made, the same shall render a candidate ineligible for appointment.

29. In an identical facts, the Hon'ble Supreme Court in the case of **Dhaval Singh** (supra) has elucidated that in case where there was an omission on the part of a candidate to furnish information about the pendency of the criminal case, due to inadvertent mistake, the competent authority is required to consider all relevant materials after proper application of mind. The Court having found that the mistake was an inadvertent and it was also obvious that the information was conveyed voluntarily by the candidate and thus whether it would not be treated as to whether that application was filed for curing the defect which was occurred at the time of filling up the form, has upheld the order of the Tribunal by setting aside the impugned



order of cancellation of candidature, though for slightly different reasons.

30. Reiterating the observation, afore-noted, the Apex Court in the case of **Sandeep Kumar** (supra) has held that modern approach should be to reform a person instead of branding him a criminal all his life. This Court finds worth benefiting to encapsulate the relevant paragraphs hereunder:

“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”.

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.”

31. In the afore-noted settled legal background, now coming to the case in hand, there is no dispute that at the time of filling up of the application form with the acknowledgment, the petitioner did not mention with respect to the pending criminal case(s) or criminal antecedent but obviously at the time of character verification, he voluntarily disclosed about two



criminal cases, which led to keep the joining of the petitioner on hold till final disposal of the criminal case(s) vide Annexure-8 duly issued by the respondent no.4.

32. The fresh character report duly submitted by the S.S.P. Gaya to the respondent no.4 under letter no. 3748 dated 08.09.2020 clearly demonstrates that the petitioner was acquitted of all the charges in connection with Wazirganj P.s. Case No. 50 of 2011 by the Additional District and Sessions Judge-VIII, Gaya vide judgment dated 30.08.2019. So far Wazirganj P.S. Case No. 111 of 2019 is concerned, on being found no complicity of the petitioner, final form has been submitted, showing him as innocent, which was duly accepted by the jurisdictional court. Thus, at the time of final consideration at the level of the respondent no.4, neither there was any case pending against the petitioner nor there was any finding of his guilt by any competent court of law.

33. Coming to the allegation levelled in both the criminal cases, this Court also finds that they are trivial in nature; Wazirganj P.S. Case No.50 of 2011 was instituted in the premise of a trifle in respect to unauthorized grazing of the cattle in the fields of the petitioner's family resulting into skirmishes, nonetheless the petitioner has been acquitted from



all the charges beyond all reasonable doubt; and in second case being Wazirganj P.S. Case No. 111 of 2019, there had been an allegation of abusing and scuffle between the members of two groups. These were the facts, which led the respondent authorities to keep the joining of the petitioner in hold. However, placing reliance upon the prescriptions of Bihar Police Manual and the fact that the petitioner failed to disclose the material facts regarding criminal case(s) while submitting application, the candidature of the petitioner came to be cancelled.

34. This Court finds substance in the submission of the learned Advocate for the petitioner based upon the decision of this Court rendered in the cases of **Sonu Kumar** (supra) and **Rakesh Kumar Singh** (supra), wherein the learned Single Judge placing reliance upon Avtar Singh, (Supra), Sandeep Kumar (Supra) and Ravindra Kumar (supra) has observed that if there is non-disclosure of pending criminal case(s) at the time of submission of the Form, it stands rectified subsequently at the time of filling up the Character Verification Form. The mistake committed by the writ-petitioner(s) regarding non-disclosure of criminal case against him is not fatal.

35. The Apex Court has time and again cautioned that



no thumb of rule of dismissal and cancellation of candidature shall apply in all cases rather the cases are required to be considered in a reasonable manner with objectivity having due regards to the facts of the case.

36. To meet this contingency, Deputy Inspector General of Police, Administration, Bihar, Patna vide letter no. 64 dated 09.09.2024 (Annexure-A series to the counter affidavit), issued a proposed resolution in the light of the guidelines enunciated in the case of **Avtar Singh** (supra) that in case of non-disclosure of criminal case(s), the appointing authority shall be obliged to take a decision on the merit of the case, based upon the facts of case to case.

37. In the cases of **Avtar Singh** (supra) and **Sandeep Kumar** (supra), the Apex Court has held that non-disclosure of pending criminal case/criminal antecedent at the time of filling up of the application form can be treated as an application for curing the defect(s) in the initial form, if the fact has been truthfully declared in character verification form. The Court has emphasized the modern approach should be to reform a person instead of branding him a criminal all his life.

38. The respondent authorities while passing the impugned order of cancellation of the candidature of the



petitioner ought to bear in mind that the exercise of power has to be in a reasonable manner with objectivity and having due regard to the facts, especially, when the factum of pending criminal cases have been voluntarily disclosed by the petitioner at the time of submission of character verification form. This Court finds that while passing the impugned order, the concerned respondent has failed to consider the facts and circumstances objectively. This fact cannot also be ignored that the petitioner was aged about 22 years while filling up the form and at such age people often commit indiscretion and such indiscretion may often be condoned [**vide Sandeep Kumar (supra)**].

39. So far the contention made by the learned Advocate for the State based upon the decision rendered in **Anil Kanwariya (supra)** is concerned, with due regard, it is clarified that the facts of the afore-noted case is not identical to the present one, inasmuch as the candidate in the said case was already convicted by the competent court, the date on which application form was filed; though, he was only given the benefit under Section 3 of the Probation of Offenders Act, 1958 (for short 'the Act 1958'). The Court also found that apart from submitting false declaration, the candidate did not even assail



the order of conviction; and when he was selected, good sense prevailed and he preferred appeal before the learned Sessions Court after a period of approximately two years and obtained the benefit of Section 12 of the Act, 1958, which provides that a person found guilty of an offence and dealt with under the provision of Section 3 or Section 4 shall not suffer disqualification, if any, attaching to the conviction of an offence under such law. It was the case, where by suppressing the judgment afore-noted, the incumbent has obtained appointment. However, the facts of the present case clearly reflects that the petitioner had voluntarily disclosed the particulars of the criminal case at the time of submitting Character Verification Form.

40. In view of the discussions and observations made hereinabove as also in the light of the law laid down by the Apex Court in the afore-noted judgments, the order impugned as contained in Memo No. 22 dated 25.01.2021 passed by the respondent no.4, is hereby set aside.

41. The respondent no.4 is directed to reconsider the candidature of the petitioner afresh in view of the observations made hereinabove.

42. The writ petition stands allowed.



43. There shall be no order as to cost(s).

44. Pending application(s), if any shall also stand disposed off.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	11-02-2025
Uploading Date	02-04-2025
Transmission Date	

