

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.741 of 2025

In

Civil Writ Jurisdiction Case No.6827 of 2023

-
-
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.

... .. Appellant/s

Versus

Sonu Kumar Son of Sri Bindeshwar Mahto, Resident of Village Gonhar Nawada, PO Kharaj Jitwarpur, PS Muffasil, District Samastipur, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. P.K. Shahi, Advocate General
Mr. Sheo Shankar Prasad, Advocate
Mr. Anil Kumar, Advocate
Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Kumar Kaushik, Advocate
Mrs. Namrata Dubey, Advocate
Mr. Hemant Ray, Advocate
For the BPSSC : Mr. Sanjay Pandey, Advocate
Mr. Nishant Kumar Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-03-2026

1. The present Letters Patent Appeal arises out of the judgment and order dated 20.01.2025 passed by the learned Single Judge in C.W.J.C. No. 6827 of 2023 whereby the writ petition preferred by the writ petitioner, Sonu Kumar was allowed and the order of dismissal from service passed against him was set aside.

2. The writ petitioner approached this Court seeking, inter alia, the following reliefs:

"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."

3. The primary challenge in the writ petition was to the order contained in Memo No. 1742 dated 20.06.2022 and the consequential order contained in Memo No. 1620 dated 27.06.2022 whereby the petitioner, who had been appointed as a Sub-Inspector of Police, was dismissed from service on the allegation that he had suppressed the pendency of a criminal case while filling up the application form pursuant to Advertisement No. 01 of 2017. The petitioner also challenged the appellate order dated 14.02.2023 whereby his appeal against the dismissal order was rejected.

FACTS LEADING TO THE WRIT PETITION :

4. The relevant facts giving rise to the present litigation, as pleaded by the parties, are as follows:

An advertisement bearing Advertisement No. 01 of 2017 dated 16.09.2017 was issued by the Bihar Police Subordinate Service Commission inviting applications for appointment to the post of Police Sub-Inspector against 1717 vacancies. The petitioner, being eligible, submitted his online application form. In the application form, he was required to disclose, inter alia, whether any criminal case or F.I.R. had ever been registered against him and whether any such case was pending at the time of



submission of the form. The petitioner answered the relevant columns in the negative.

5. The petitioner, thereafter, appeared in the preliminary examination and was declared successful. He also qualified the main examination and subsequently the Physical Eligibility Test. After being declared successful in all stages of the selection process, he was called upon for documents verification. At the stage of documents verification, the petitioner was required to fill up the verification roll prescribed under the Bihar Police Manual. In Column No. 7 of the verification roll, the candidate was required to disclose whether he had ever been accused in any criminal or civil case and whether any case was pending against him.

6. It is the petitioner's case that while filling up the verification roll in Column No. 8, he disclosed the pendency of a criminal case being Samastipur Muffasil Case No. 291 of 2015 dated 21.09.2015. Subsequently, the verification roll was processed by the concerned authorities and a noting was made therein on 07.05.2019 indicating that the aforesaid criminal case had been registered against the petitioner and that charge-sheet had been submitted under sections 364, 302, 201 and 120B of the Indian Penal Code.



Despite the said disclosure and verification, the petitioner was issued an appointment letter dated 29.05.2019 by the Deputy Inspector General of Police, Darbhanga Region, and he joined the service. He was thereafter posted at Benipatti Police Station in the district of Darbhanga.

7. While the petitioner was in service, an order dated 14.04.2020 was issued alleging that he had suppressed the pendency of the criminal case while filling up the online application form. On the basis of such allegation, he was placed under orders of suspension and called upon to submit his explanation.

The petitioner submitted his reply stating that the non-disclosure in the online application form had occurred due to a typing mistake by the operator at the cyber cafe who had filled up the form on his behalf.

Subsequently, a departmental proceeding was initiated against him. A charge-sheet dated 14.08.2020 was served alleging that he had made a false declaration in the application form and had obtained appointment by suppressing material information regarding the pendency of a criminal case.

8. The petitioner submitted his written statement of defence before the Inquiry Officer. Upon completion of the



inquiry, the Inquiry Officer recorded a finding that the charge of suppression of the criminal case stood proved. A second show-cause notice was thereafter issued to the petitioner proposing the punishment of dismissal from service. In response thereto, the petitioner submitted that during the pendency of the disciplinary proceeding, he had been acquitted in the criminal case by the competent criminal Court at Samastipur and placed the certified copy of the judgment of acquittal on record.

Despite the said submission, the disciplinary authority passed the impugned order dated 27.06.2022 dismissing the petitioner from service. The petitioner preferred a statutory appeal which was rejected by the appellate authority on 14.02.2023. Aggrieved thereby, the petitioner filed the writ petition before this Court.

9. Before the learned Single Judge, the petitioner contended that the criminal case in question had been lodged merely on suspicion and he had ultimately been honourably acquitted after full trial. It was further contended that although the pendency of the criminal case had not been mentioned in the online application form, the petitioner had voluntarily disclosed the same at the stage of verification by mentioning the details of the case in the verification roll. The petitioner



argued that the disclosure had been made prior to issuance of the appointment letter and therefore, the appointing authority was fully aware of the pendency of the criminal case at the time when the appointment letter was issued.

According to the petitioner, once the appointing authority had issued the appointment letter after verification of the records and with knowledge of the pending criminal case, it could not subsequently be alleged that the petitioner had suppressed material information. It was also submitted that the petitioner had subsequently been acquitted by the trial court and there was no other criminal antecedent against him. The petitioner further contended before the learned Single Judge that he had qualified the entire selection process on merit and that the alleged omission in the application form occurred when he was only about 21 years of age.

In support of his submissions, reliance was placed upon the judgments of the Hon'ble Supreme Court in **Avtar Singh -Vrs.- Union of India reported in (2016) 8 Supreme Court Cases 471**, **Ravindra Kumar -Vrs.- State of U.P. reported in (2024) 5 Supreme Court Cases 264** and **Commissioner of Police -Vrs.- Dhaval Singh reported in (1999) 1 Supreme Court Cases 246**.



10. The respondents, on the other hand, opposed the writ petition and contended that the petitioner had deliberately suppressed the pendency of a criminal case while filling up the online application form.

According to the respondents, the criminal case registered against the petitioner was for serious offences including Section 302 of the Indian Penal Code and therefore, the suppression of such information could not be treated as a minor or inadvertent mistake.

It was argued that candidates aspiring to join the police force are required to maintain the highest standards of integrity and character and any suppression of criminal antecedents would render them unsuitable for appointment in a disciplined force. The respondents relied upon the judgment of the Hon'ble Supreme Court in **Union of India -Vrs.- Methu Meda reported in (2022) 1 Supreme Court Cases 1** and contended that the non-disclosure of the criminal case in the application form amounted to misconduct warranting dismissal from service.

FINDINGS OF THE LEARNED SINGLE JUDGE :

11. The learned Single Judge, after considering the pleadings of the parties and the law laid down by the Hon'ble Supreme Court, framed the principal issue as to *whether non-*



disclosure of the criminal case in the online application form would constitute misconduct disentitling the petitioner from continuing in service, particularly when the petitioner had disclosed the pendency of the case at the stage of verification prior to issuance of the appointment letter?

The learned Single Judge examined the provisions contained in **Rule 673** of the **Bihar Police Manual** relating to verification of character and antecedents and observed that the verification roll required the candidate to disclose whether he had ever been accused in a criminal case, 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."

12. The learned Single Judge thereafter considered the law laid down by the Hon'ble Supreme Court in **Avtar Singh** (Supra) and **Ravindra Kumar** (Supra) and observed that while suppression of criminal antecedents may in appropriate cases justify termination of service, the employer is required to consider the overall facts and circumstances including the nature of the offence, the stage at which disclosure was made and the conduct of the candidate. Applying the aforesaid principles to the facts of the case, it was held that although the petitioner had failed to disclose the criminal case in the online application form, he had voluntarily disclosed the same at the stage of verification prior to issuance of



the appointment letter. The learned Single Judge further observed that the appointing authority had issued the appointment letter after the verification process and therefore, it could not be said that the authorities were unaware of the pendency of the criminal case at the time of appointment. It was also noticed that the petitioner had subsequently been acquitted by the trial Court.

In the aforesaid circumstances, the learned Single Judge held that the disciplinary authority had failed to properly consider the relevant factors laid down in the decisions of the Hon'ble Supreme Court and that the dismissal order was therefore liable to be set aside. Consequently, the writ petition was allowed and the impugned orders of dismissal and rejection of appeal were quashed.

SUBMISSION OF THE APPELLANT :

13. The learned Advocate General appearing on behalf of the appellants-State assailed the judgment of the learned Single Judge primarily on the ground that the petitioner had made a false declaration in the application form by stating that no criminal case was pending against him. It was contended that the suppression of such material information, particularly in respect of a case involving serious offences including section 302 of I.P.C., would render the candidate unsuitable for appointment in the police force.



The learned Advocate General further argued that the learned Single Judge had erred in placing reliance on the decisions in **Avtar Singh** (Supra) and **Ravindra Kumar** (Supra), as the said judgments would not apply in the present case where the suppression related to a serious offence.

Reliance was placed upon the judgment of the Hon'ble Supreme Court in **State of M.P. and Ors. -Vrs.- Abhijit Singh Pawar reported in (2018) 18 Supreme Court Cases 733**, wherein following has been observed:

“12. A three-Judge Bench of this Court in Avtar Singh v. Union of India was required to consider the difference of opinion in decisions of this Court on the question of suppression of information or submission of false information in the verification form on issues pertaining to involvement in criminal cases and the effect thereof. The law on the point was settled by this Court in following terms in para 38 of its decision as under: (SCC pp. 507-08)

"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 in original)

13. In Avtar Singh, though this Court was principally concerned with the question as to non-disclosure or wrong disclosure of information, it was observed in para 38.5 that even in cases where a truthful disclosure about a concluded case was made, the employer would still have a right to consider antecedents of the candidate and could not be compelled to appoint such candidate.



14. *In the present case, as on the date when the respondent had applied, a criminal case was pending against him. Compromise was entered into only after an affidavit disclosing such pendency was filed. On the issue of compounding of offences and the effect of acquittal under Section 320(8) CrPC, the law declared by this Court in Mehar Singh, specially in paras 34 and 35 completely concludes the issue. Even after the disclosure is made by a candidate, the employer would be well within his rights to consider the antecedents and the suitability of the candidate. While so considering, the employer can certainly take into account the job profile for which the selection is undertaken, the severity of the charges levelled against the candidate and whether the acquittal in question was an honourable acquittal or was merely on the ground of benefit of doubt or as a result of composition.*

15. *The reliance placed by Mr Dave, learned Amicus Curiae on the decision of this Court in Mohd. Imran is not quite correct and said decision cannot be of any assistance to the respondent. In para 5 of the said decision, this Court had found that the only allegation against the appellant therein was that he was travelling in an autorickshaw which was following the autorickshaw in which the prime accused, who was charged under Section 376 IPC, was travelling with the prosecutrix in question and that all the accused were acquitted as the prosecutrix did not support the allegation. The decision in Mohd. Imran thus turned on individual facts and cannot in any way be said to have departed from the line of decisions rendered by this Court in Mehar Singh, Parvez Khan and Pradeep Kumar.*



16. We must observe at this stage that there is nothing on record to suggest that the decision taken by the authorities concerned in rejecting the candidature of the respondent was in any way actuated by mala fides or suffered on any other count. The decision on the question of suitability of the respondent, in our considered view, was absolutely correct and did not call for any interference. We, therefore, allow this appeal, set aside the decisions rendered by the Single Judge as well as by the Division Bench and dismiss Writ Petition No. 9412 of 2013 preferred by the respondent. No costs.”

14. Further, reliance was placed in the case of **Rajasthan Rajya Vidyut Prasaran Nigam Limited and Anr. -Vrs.- Anil Kanwariya reported in (2021) 10 Supreme Court Cases 136** in which it is held as under:-

“8. While considering the aforesaid issues, few decisions of this Court on appointment obtained by fraud/misrepresentation and/or appointment obtained by suppression of material facts are required to be referred to and considered.

8.1. In B. Chinnam Naidul, this Court has observed that the object of requiring information in the attestation form and the declaration thereafter by the candidate is to ascertain and verify the character and antecedents to judge his suitability to enter into or continue in service. It is further observed that when a candidate suppresses material information and/or gives false information, he cannot claim any right for appointment or continuance in service.



8.2. In *Devendra Kumar*, while joining the training, the employee was asked to submit an affidavit giving certain information, particularly, whether he had ever been involved in any criminal case. The employee submitted an affidavit stating that he had never been involved in any criminal case. The employee completed his training satisfactorily and it was at this time that the employer in pursuance of the process of character verification came to know that the employee was in fact involved in a criminal case. It was found that the final report in that case had been submitted by the prosecution and accepted by the Judicial Magistrate concerned. On the basis of the same, the employee was discharged abruptly on the ground that since he was a temporary government servant, he could be removed from service without holding an enquiry. The said order was challenged by the employee by filing a writ petition before a Single Judge of the High Court which was dismissed. The Division Bench upheld that order, which was the subject-matter of appeal before this Court. Dismissing the appeal, this Court observed and held that the question is not whether the employee is suitable for the post. 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.

8.3. *It is further observed by this Court in Devendra Kumar that where an applicant employee gets an order by misrepresenting the facts or by playing fraud upon the competent authority, such an order cannot be sustained in the eye of the law. "Fraud avoids all judicial acts, ecclesiastical or temporal." It is further observed and held that dishonesty should not be permitted to bear the fruit and benefit those persons who have defrauded or misrepresented themselves and in such circumstances, the court should not perpetuate the fraud by entertaining petitions on their behalf.*

8.4. *The relevant observations in the said decision are in paras 12, 13, 18 and 25, which are as under: (Devendra Kumar case, SCC pp. 368-69 & 371)*

12. So far as the issue of obtaining the appointment by misrepresentation is concerned, it is no more res integra. The question is not whether the applicant is suitable for the post. 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. In fact, the information sought by the employer if not disclosed as required, would definitely amount to suppression of material information. 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.”

15. Further reliance has also been placed on in the case of **State of Rajasthan and others -Vrs.- Chetan Jeff reported in AIR 2022 SC 2274** in which it has been held as under:-

“6.We have heard learned counsel appearing for the respective parties at length.

6.1.At the outset, it is required to be noted that the post on which the writ petitioner is seeking the appointment is the post of constable. It cannot be disputed that the duty of the constable is to maintain law and order. Therefore, it is expected that he should be honest, trustworthy and that his integrity is above board and that he is reliable. An employee in the uniformed service presupposes a higher level of integrity as such a person is expected to uphold the law and on the contrary any act in deceit and subterfuge cannot be tolerated. In the present case the original writ petitioner has not confirmed to the above expectations/ requirements. He suppressed the material facts of his criminal antecedents. He did not disclose in the application form that against him a criminal case/FIR is pending. On the contrary, in the application form, he made a false statement that he is not facing any criminal case. Therefore, due to the aforesaid suppression, his candidature came to be rejected by the appropriate authority. Despite the above, the learned Single Judge allowed the writ petitioner and directed the State to consider the case of the original writ petitioner for



appointment as a constable mainly on the ground that the offences were trivial in nature and the suppression of such offences should have been ignored. The same has been confirmed by the Division Bench.

6.2.The question is not whether the offences were trivial in nature or not. The question is one of suppression of material fact by the original writ petitioner in respect of his criminal antecedents and making a false statement in the application form. If in the beginning itself, he has suppressed the material fact in respect to his criminal antecedents and in fact made an incorrect statement, how can he be appointed as a constable. How can he be trusted thereafter in future? How it is expected that thereafter he will perform his duty honestly and with integrity?

6.3.Therefore, as such the authorities were justified in rejecting the candidature of the respondent for the post of constable.

6.4.At this stage the decision of this Court in the case of Daya Shankar Yadav (supra) is required to be referred to. In paras 14 and 16, it is observed and held as under:

"14. Rule 14 of the Central Reserve Police Force Rules, 1955 relevant in this case relates to verification. Clauses (a) and (b) of the said Rule are extracted below:

"14. Verification.-(a) As soon as a man is enrolled, his character, antecedents, connections and age shall be verified in accordance with the procedure prescribed by the Central Government from time to time. The verification roll shall be sent to the District Magistrate or Deputy Commissioner



of the District of which the recruit is a resident.

(b) The verification roll shall be in CRP Form 25 and after verification shall be attached to the character and service roll of the member of the force concerned."

The purpose of seeking the said information is to ascertain the character and antecedents of the candidate so as to assess his suitability for the post. Therefore, the candidate will have to answer the questions in these columns truthfully and fully and any misrepresentation or suppression or false statement therein, by itself would demonstrate a conduct or character unbefitting for a uniformed security service.

16. Thus an employee on probation can be discharged from service or a prospective employee may be refused employment : (i) on the ground of unsatisfactory antecedents and character, disclosed from his conviction in a criminal case, or his involvement in a criminal offence (even if he was acquitted on technical grounds or by giving benefit of doubt) or other conduct (like copying in examination) or rustication or suspension or debarment from college, etc.; and (ii) on the ground of suppression of material information or making false statement in reply to queries relating to prosecution or conviction for a criminal offence (even if he was ultimately acquitted in the criminal case). This ground is distinct from the ground of previous antecedents and character, as it shows a current dubious conduct and absence of character at the time of making the declaration, thereby making him unsuitable for the post."



6.5. In *State of A.P. v. B. Chinnam Naidu*, (2005) 2 SCC 746 : (2005 AIR SCW 1058), this Court has observed that the object of requiring information in the attestation form and the declaration thereafter by the candidate is to ascertain and verify the character and antecedents to judge his suitability to enter into or continue in service. It is further observed that when a candidate suppresses material information and/or gives false information, he cannot claim any right for appointment or continuance in service.

6.6. In *Devendra Kumar v. State of Uttaranchal*, (2013) 9 SCC 363 : (AIR 2013 SC 3325), while joining the training, the employee was asked to submit an affidavit giving certain information, particularly, whether he had ever been involved in any criminal case. The employee submitted an affidavit stating that he had never been involved in any criminal case. The employee completed his training satisfactorily and it was at this time that the employer in pursuance of the process of character verification came to know that the employee was in fact involved in a criminal case. It was found that the final report in that case had been submitted by the prosecution and accepted by the Judicial Magistrate concerned. On the basis of the same, the employee was discharged abruptly on the ground that since he was a temporary government servant, he could be removed from service without holding an enquiry. The said order was challenged by the employee by filing a writ petition before a Single Judge of the High Court which was dismissed. The Division Bench upheld that order, which was the subject matter of appeal before this Court.



Dismissing the appeal, this Court observed and held that the question is not whether the employee is suitable for the post. 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.

*6.7. In the case of **Jainendra Singh v. State of U.P., (2012) 8 SCC 748 : (2012 AIR SCW 4347)**, in para 29.4, this Court has observed and held that "a candidate having suppressed material information and/or giving false information cannot claim right to continue in service and the employer, having regard to the nature of employment as well as other aspects, has the discretion to terminate his services. In para 29.6, it is further observed that the person who suppressed the material information and/or gives false information cannot claim any right for appointment or continuity in service. In para 29.7, it is observed and held that "the standard expected of a person intended to serve in uniformed service is quite distinct from other services and, therefore, any deliberate statement or omission regarding a vital information can be seriously viewed and the ultimate decision of the appointing authority cannot be faulted.*



6.8. In *Daya Shankar Yadav v. Union of India*, (2010) 14 SCC 103 : (2011 AIR SCW 396), this Court had an occasion to consider the purpose of seeking the information with respect to antecedents. It is observed and held that the purpose of seeking the information with respect to antecedents is to ascertain the character and antecedents of the candidate so as to assess his suitability for the post. It is further observed that when an employee or a prospective employee declares in a verification form, answers to the queries relating to character and antecedents, the verification thereof can lead to any of the following consequences: (SCC pp. 110-11, para 15)

"15. ... (a) If the declarant has answered the questions in the affirmative and furnished the details of any criminal case (wherein he was convicted or acquitted by giving benefit of doubt for want of evidence), the employer may refuse to offer him employment (or if already employed on probation, discharge him from service), if he is found to be unfit having regard to the nature and gravity of the offence/crime in which he was involved.

(b) On the other hand, if the employer finds that the criminal case disclosed by the declarant related to offences which were technical, or of a nature that would not affect the declarant's fitness for employment, or where the declarant had been honourably acquitted and exonerated, the employer may ignore the fact that the declarant had been prosecuted in a criminal case and proceed to appoint him or continue him in employment.



(c) Where the declarant has answered the questions in the negative and on verification it is found that the answers were false, the employer may refuse to employ the declarant (or discharge him, if already employed), even if the declarant had been cleared of the charges or is acquitted. This is because when there is suppression or non-disclosure of material information bearing on his character, that itself becomes a reason for not employing the declarant.

(d) Where the attestation form or verification form does not contain proper or adequate queries requiring the declarant to disclose his involvement in any criminal proceedings, or where the candidate was unaware of initiation of criminal proceedings when he gave the declarations in the verification roll/attestation form, then the candidate cannot be found fault with, for not furnishing the relevant information. But if the employer by other means (say police verification or complaints, etc.) learns about the involvement of the declarant, the employer can have recourse to courses (a) or (b) above."

Thereafter, it is observed and held that an employee can be discharged from service or a prospective employee may be refused employment on the ground of suppression of material information or making false statement in reply to queries relating to prosecution or conviction for a criminal offence (even if he was ultimately acquitted in the criminal case).

6.9.*In State of M.P. v. Abhijit Singh Pawar, (2018) 18 SCC 733: (AIR 2018 SC (Supp) 1493), when the employee participated in the selection process, he tendered an*



affidavit disclosing the pending criminal case against him. The affidavit was filed on 22-12-2012. According to the disclosure, a case registered in the year 2006 was pending on the date when the affidavit was tendered. However, within four days of filing such an affidavit, a compromise was entered into between the original complainant and the employee and an application for compounding the offence was filed under Section 320 CrPC. The employee came to be discharged in view of the deed of compromise. That thereafter the employee was selected in the examination and was called for medical examination. However, around the same time, his character verification was also undertaken and after due consideration of the character verification report, his candidature was rejected. The employee filed a writ petition before the High Court challenging rejection of his candidature. The learned Single Judge of the High Court of Madhya Pradesh allowed the said writ petition. The judgment and order passed by the learned Single Judge directing the State to appoint the employee came to be confirmed by the Division Bench which led to appeal before this Court. After considering a catena of decisions on the point including the decision in Avtar Singh v. Union of India, (2016) 8 SCC 471 : (AIR 2016 SC 3598), this Court upheld the order of the State rejecting the candidature of the employee by observing that as held in Avtar Singh (supra), even in cases where a truthful disclosure about a concluded case was made, the employer would still have a right to consider antecedents of the candidate and could not be compelled to appoint such candidate.



6.10. After reproducing and/or reconsidering para 38.5 of the decision in *Avtar Singh (supra)*, in *Abhijit Singh Pawar (supra)*, in para 13, this Court observed and held as under:

"13. In *Avtar Singh [Avtar Singh v. Union of India, (2016) 8 SCC 471 : (AIR 2016 SC 3598)*, though this Court was principally concerned with the question as to non-disclosure or wrong disclosure of information, it was observed in para 38.5 that even in cases where a truthful disclosure about a concluded case was made, the employer would still have a right to consider antecedents of the candidate and could not be compelled to appoint such candidate."

6.11. Recently, in the case of *Rajasthan Rajya Vidyut Prasaran Nigam Limited v. Anil Kanwariya, (2021) 10 SCC 136 : (AIR Online 2021 SC 728)*, this Court had an occasion to consider the submission on behalf of an employee whose services were terminated on the ground of filing a false declaration to the effect that neither a criminal case is pending against him nor has he been convicted by any Court of law, that subsequently he has been granted the benefit of Section 12 of the Probation of Offenders Act and therefore his services ought not to have been terminated. This Court has observed in paras 13 and 14 as under:

"13. Even otherwise, subsequently getting the benefit of Section 12 of the 1958 Act shall not be helpful to the respondent inasmuch as the question is about filing a false declaration on 14-4-2015 that neither any criminal case is pending against him nor has he been convicted by any court of law, which was much prior to the order passed by



the learned Sessions Court granting the benefit of Section 12 of the 1958 Act. As observed hereinabove, even in case of subsequent acquittal, the employee once made a false declaration and/or suppressed the material fact of pending criminal case shall not be entitled to an appointment as a matter of right.

14. The issue/question may be considered from another angle, from the employer's point of view. 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. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot



claim the appointment and/or continue to be in service as a matter of right."

7. Applying the law laid down by this Court in the aforesaid cases, it cannot be said that the authority committed any error in rejecting the candidature of the original writ petitioner for the post of constable in the instant case.

9. In view of the above discussion and for the reasons stated above, both, the learned Single Judge as well as the Division Bench have erred in directing the State to consider the case of the respondent for appointment as a constable. The judgment and order passed by the High Court is unsustainable, both, on facts as well as on law. Under the circumstances, the same deserves to be quashed and set aside and is accordingly quashed and set aside. It is held that the candidature of the respondent - original writ petitioner for the post of constable had been rightly rejected by the appropriate authority. Present appeal is accordingly allowed. In the facts and circumstances of the case, there shall be no order as to costs."

It was therefore argued that the learned Single Judge had committed an error in interfering with the dismissal order.

SUBMISSION OF THE RESPONDENT :

16. The learned counsel for the respondent on the other hand supported the impugned judgment and placed reliance in the case of **Ravindra Kumar -Vrs.- State of Uttar Pradesh and Ors. reported in 2024 Supreme Court Cases**



OnLine SC 180, where a question came for adjudication as to whether non-disclosure of a criminal case (in which the candidate is acquitted) in the verification form is fatal for the candidate's employment. The Hon'ble Supreme Court after considering the ratio laid down in the case of **Avtar Singh -Vrs.- Union of India and Ors. reported in (2016) 8 Supreme Court Cases 471** held as under:-

“23. As would be clear from Avtar Singh (Supra), it has been clearly laid down that though a person who has suppressed the material information cannot claim unfettered right for appointment, he or she has a right not to be dealt with arbitrarily. The exercise of power has to be in a reasonable manner with objectivity and having due regard to the facts. In short, the ultimate action should be based upon objective criteria after due consideration of all relevant aspects.

.....32. The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgement of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio economic strata of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered

.....34. On the facts of the case and in the backdrop of the special circumstances set



out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can be deemed fatal for the appellant. Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario.”

17. He further submits that on reading of the judgment by which the respondent has been acquitted of the criminal offence alleged to have been committed by him , it is clear that it amounts to clean acquittal. In this regard, he has placed reliance in the case of **Ram Lal -Vrs.- State of Rajasthan and others reported in (2024) 1 Supreme Court Cases 175** wherein what will constitute clean acquittal has been explained as follows:-

“27. What is important to notice is that the Appellate Judge has clearly recorded that in the document Ext. P-3 original marksheet of the 8th standard, the date of birth was clearly shown as 21-4-1972 and the other documents produced by the prosecution were either letters or a duplicate marksheet. No doubt, the Appellate Judge says that it becomes doubtful whether the date of birth was 21-4-1974 and that the accused was



entitled to receive its benefit. However, what we are supposed to see is the substance of the judgment. A reading of the entire judgment clearly indicates that the appellant was acquitted after full consideration of the prosecution evidence and after noticing that the prosecution has miserably failed to prove the charge (see S. Samuthiram).

28. Expressions like "benefit of doubt" and "honourably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used."

SCOPE OF INTERFERENCE IN LETTERS PATENT

APPEAL:

18. Before examining the rival submissions, it would be appropriate to notice the limited scope of interference in an intra-court appeal under Clause 10 of the Letters Patent. A Letters Patent Appeal is an intra-court appeal, whereby the judgment of a learned



Single Judge exercising writ jurisdiction is examined by a Division Bench of the same High Court. However, it is well settled that such jurisdiction is not equivalent to a full rehearing of the matter on facts and law as in a regular first appeal. The Appellate Court does not ordinarily substitute its own view merely because another view may also be possible on the same set of facts.

The jurisdiction of the Division Bench in a Letters Patent Appeal is primarily corrective in nature and interference is warranted only when the judgment of the learned Single Judge suffers from patent illegality, perversity or manifest error of law. This limitation flows from the very structure of writ jurisdiction. When a writ petition is decided by a Single Judge, the Court exercises supervisory and constitutional jurisdiction. If every factual finding recorded by the learned Single Judge were to be reopened in appeal, the very purpose of assigning writ matters to a Single Judge would be defeated and the appellate court would effectively function as another court of first instance.

Therefore, the consistent view taken by the Hon'ble Supreme Court is that interference in an intra-court appeal must remain confined to cases where the reasoning of the learned Single Judge is either perverse, unsupported by the material on record, or contrary to settled legal principles. The Supreme Court in the case



of **B. Venkatamuni -Vrs.- C.J. Ayodhya Ram Singh & Ors.**
reported in (2006) 13 Supreme Court Cases 449 has observed as
follows:

“In an intra-court appeal, the Division Bench undoubtedly may be entitled to re-appraise both questions of fact and law, but the following dicta of this Court in Umabai & Anr. vs. Nilkanth Dhondiba Chavan (Dead) By Lrs. & Anr. [(2005) 6 SCC 243], could not have been ignored by it, whereupon the learned counsel for Respondents relied:

"It may be, as has been held in Asha Devi v. Dukhi Sao (1974) 2 SCC 492 that the power of the appellate court in intra-court appeal is not exactly the same as contained in Section 100 of the Code of Civil Procedure but it is also well known that entertainment of a letters patent appeal is discretionary and normally the Division Bench would not, unless there exist cogent reasons, differ from a finding of fact arrived at by the learned Single Judge. Even as noticed hereinbefore, a court of first appeal which is the final court of appeal on fact may have to exercise some amount of restraint."

The Hon'ble Supreme Court has also explained that while exercising intra-court appellate jurisdiction, the Division Bench must keep in mind that the learned Single Judge has already evaluated the pleadings, the documents on record and the submissions of the parties. Unless the conclusions drawn are wholly unreasonable or suffer from legal infirmity, the Appellate



Court would ordinarily refrain from interfering with the findings so recorded. The principle has been reiterated in several decisions including **Management of Narendra and Company Private Limited. -Vrs.- Workmen of Narendra and Company reported in (2016) 3 Supreme Court Cases 340** and **Umabai and Anr. -Vrs.- Nilkanth Dhondiba Chavan reported in (2005) 6 Supreme Court Cases 243** that the appellate jurisdiction under the Letters Patent is not meant to substitute the view of the Division Bench merely because another view is possible. The power is to be exercised with restraint, keeping in mind that the purpose of such jurisdiction is to correct errors which are apparent and substantial, and not to undertake a fresh appreciation of the entire matter.

ANALYSIS OF SUBMISSIONS :

19. Keeping in mind that the jurisdiction of this Court while dealing with this Letters Patent Appeal is primarily corrective in nature and interference would only be warranted when the judgment of the learned Single Judge is found to be suffering from patent illegality, perversity or manifest error of law, this Court is hereby adjudicating this case within the narrow compass of judicial review available to it.



20. Learned counsel appearing on behalf of the appellants–State has strongly contended that the petitioner had suppressed material information relating to the pendency of a criminal case while filling up the online application form and such suppression, particularly in relation to a serious offence under Section 302 of the Indian Penal Code, would render the candidate unsuitable for appointment in a disciplined force like the police. It is submitted that the learned Single Judge failed to properly appreciate this aspect and erred in interfering with the order of dismissal. The appellants have relied upon the line of decisions of the Hon'ble Supreme Court which emphasize that a candidate seeking appointment to a disciplined force is under a duty to make a truthful disclosure of his criminal antecedents, and any deliberate suppression of such information may justify termination from service.

21. There can be no quarrel with the proposition of law laid down in the said decisions. The requirement of maintaining integrity, transparency and impeccable character is of paramount importance in services connected with law enforcement. A person seeking appointment in such service is expected to disclose all relevant facts relating to his antecedents so that the employer may assess his suitability for the post.



However, the applicability of the aforesaid principle depends upon the factual matrix of each individual case, particularly the circumstances in which the alleged suppression occurred and whether the employer was ultimately misled regarding the antecedents of the candidate.

After going through the two very important documents which are relevant in this case i.e. the application form and the verification roll, we find that the respondent in the verification roll, though in column no. 7 has mentioned that no criminal case is pending against him, but in column no. 8 of the verification roll, he has mentioned that about the pendency of the case bearing *Case no. 291, 21 September 2015, Samastipur Mufassil, Samastipur*. More importantly, this verification roll was verified by the concerned authority and on 07/05/2019, a noting was recorded that a criminal case bearing Samastipur Muffasil P.S. Case No. 291 of 2015 was pending against the petitioner in which charge-sheet has been submitted.

The learned Advocate General submitted that the disclosure against column no. 8 has been filled up by the Inquiry Officer and not by the respondent, in order to deprive the respondent of the benefit of disclosure made by him. We are unable to accept such contention advanced by the learned



Advocate General for the reason that no such averment or pleading to that effect was ever made by the appellant either before the Writ Court or in the memo of appeal of this L.P.A. It is submission like a drowning man catches at a straw.

22. We find that despite such disclosure in verification roll, the appointing authority proceeded to issue the appointment letter in favour of the petitioner and permitted him to join the service. Thus, unlike the cases relied upon by the appellants, this is not a situation where the employer remained unaware of the criminal antecedent due to suppression by the candidate. On the contrary, the record demonstrates that the fact relating to the pendency of the criminal case was very much within the knowledge of the authorities during the verification process prior to issuance of the appointment letter.

The crucial distinction, therefore, lies in the fact that the alleged omission in the application form did not ultimately result in concealment of the criminal antecedent from the appointing authority. The authorities had the opportunity to examine the antecedents of the petitioner at the stage of verification and still chose to appoint him to the post of Sub-Inspector of Police.

Once the employer had issued the appointment letter after verification of the relevant records, it cannot subsequently be



contended that the respondent had secured the appointment by misleading the authorities or by suppressing material information.

23. In this context, the learned Single Judge has also taken note of the fact that the petitioner had subsequently been acquitted in the criminal case by the competent criminal Court after full trial. It is also significant to note that the disciplinary authority proceeded to impose the extreme penalty of dismissal solely on the basis of non-disclosure in the online application form without adequately considering the surrounding circumstances, including the fact that the authorities were aware as on 07.05.2019 about the pendency of criminal case against the respondent and still chose to appoint him.

The judgments relied upon by the appellants would ordinarily apply in cases where the suppression of criminal antecedent prevents the employer from evaluating the suitability of the candidate at the stage of appointment. The present case stands on a different footing, as the material on record indicates that the authorities were aware of the criminal case at the time when the appointment order was issued. In such circumstances, the view taken by the learned Single Judge that the dismissal order required interference cannot be said to be unreasonable or contrary to the principles laid down by the Hon'ble Supreme Court.



24. After careful consideration of the reasonings recorded by the learned Single Judge, we do not find that the impugned judgment suffers from any perversity, illegality or manifest error warranting interference in exercise of appellate jurisdiction under the Letters Patent, which in any case is very limited as explained in catena of judgments discussed herein above.

Thus, in the facts and circumstances of the case, we are satisfied that the learned Single Judge has correctly appreciated the materials on record and applied the law laid down by the Hon'ble Supreme Court.

Consequently, the present Letters Patent Appeal fails and is accordingly dismissed.

25. All pending I.A.(s), if any, shall stand disposed of. There shall be no order to costs.

(Sangam Kumar Sahoo, CJ)

(Alok Kumar Sinha, J)

Ankit Kumar/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17.03.2026
Transmission Date	NA

