



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-22316-2023

Reserved on : 02.12.2025
Pronounced on : 09.12.2025
Uploaded on : 10.12.2025

Harpreet SinghPetitioner

versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. Baldev S. Sidhu, Advocate for the petitioner.

Mr. Surya Kumar, A.A.G., Punjab.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has invoked the writ jurisdiction of this Court by filing the instant petition under Articles 226/227 of the Constitution of India, seeking a writ of certiorari for quashing the order dated 23.08.2023 (Annexure P-1), vide which the services of the petitioner have been terminated.

2. The brief facts, as have been pleaded in the petition, are that the Punjab Public Service Commission (hereinafter referred to as 'Commission') invited online applications for the post of Junior Engineer (Civil) in the Department of Rural Development and Panchayat, Punjab on 30.03.2021. The last date for submission of online application was 20.04.2021. The petitioner submitted online application for the abovesaid post on 10.04.2021 and later on, he submitted the application to the department on 13.05.2021 (Annexure P-2). Thereafter,

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he was selected and appointed as Junior Engineer (Civil), vide appointment letter dated 16.01.2023 (Annexure P-3) and he joined on 18.01.2023 (Annexure P-4) at the Head Quarter Mohali. Thereafter, he was posted in Block Mehal Kalan, District Barnala, where he joined on 23.01.2023 (Annexure P-5). Thereafter, concerned official of the Head Quarter Mohali asked the petitioner to submit an affidavit about his antecedents and he submitted the same on 22.02.2023 (Annexure P-6) and in the said affidavit, he submitted that FIR No.22 of 2021 is pending against him in the Court. Since the appointment was offered to the petitioner subject to the verification of the character and antecedents, the Department sent a letter to the District Magistrate for verification of the character and antecedents of the selected/appointed candidates. In the verification letter dated 27.01.2023, the District Magistrate, Patiala has stated that an FIR No.22 dated 03.03.2021 under Sections 323, 341, 148 & 149 of Indian Penal Code, 1860 at Police Station Kheri Gandian is pending against the petitioner and on receipt of the said letter, respondent No.1 issued a show cause notice dated 09.05.2023 (Annexure P-9) to the petitioner as to why his services be not terminated as he has not disclosed about the criminal case pending against him in his application form. The petitioner submitted reply dated 11.05.2023 (Annexure P-10) to the show cause notice and vide order dated 23.08.2023 (Annexure P-1), the services of the petitioner have been terminated on the ground that the petitioner has not disclosed about the registration of FIR against him at the time of filling his online application on 10.04.2021 and while submitting the application form in

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the Department of Rural Development and Panchayat on 13.05.2021. The said order has been impugned by the petitioner in the instant petition.

3. Reply by way of an affidavit of Sh. Karandeep Singh Chahal, Chief Engineer, Panchayati Raj, Public Works, Department of Rural Development and Panchayats, Punjab, on behalf of respondents No.1 to 3, has been filed, wherein it has been stated that the Commission had conducted examination for recruitment to the post of Junior Engineer (Civil) in various departments of the State of Punjab. A common merit list was prepared by the Commission and Department of Water Resources (WR Department) was nominated as Nodal Department for counselling. The petitioner was allotted Department of Rural Development and Panchayat (RD&P Department) and accordingly, appointment letter dated 16.01.2023 for the post of Junior Engineer (Civil) was issued to the petitioner along with other successful candidates. Simultaneously, process of verification of character and antecedents of the appointed candidates as Junior Engineer (Civil) was initiated and the District Magistrate, Patiala, vide letter dated 27.01.2023 (Annexure R-1), intimated respondent-Department that as per the report of Senior Superintendent of Police, Patiala, an FIR No.22 dated 03.03.2021 under Sections 323, 341, 148 & 149 of IPC at Police Station Kheri Gandian was registered against the petitioner and the same is under trial. Thereafter, the respondent-department sought advice from the Department of Legal and Legislative Affairs, Punjab and the said department, vide letter dated 01.03.2023 (Annexure R-2), has

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advised the respondent-department that if the petitioner had concealed the fact of pending FIR while applying for the post of Junior Engineer (Civil), his services should be dispensed with in the light of condition No.18 of the appointment letter. Thereafter, the respondent-Department issued show cause notice dated 09.05.2023 to the petitioner calling upon him to clear his position over the concealment of the material fact and regarding the report received from the District Magistrate, Patiala. The petitioner submitted his reply dated 11.05.2023, whereby he had intimated that at the time of applying for the post of Junior Engineer (Civil), he was not in the knowledge of the registration of the said FIR against him. The said reply was forwarded to the Senior Superintendent of Police, Patiala, vide letter dated 08.06.2023, for comments/report. The Senior Superintendent of Police, Patiala, vide letter dated 13.07.2023 (Annexure R-3), reported that during investigation in FIR No.22 dated 03.03.2021, registered against the petitioner, the Investigating Officer conducted raids on various dates i.e. 15.03.2021, 25.03.2021, 05.04.2021 & 15.04.2021 and the house of the petitioner was found locked. Then on 29.04.2021, the petitioner appeared before the police and was arrested and released after he furnished the bail bonds. Thus, it is clear that the petitioner was in knowledge of registration of FIR against him but he concealed material fact from the respondent-Department while applying for the Government job. It has further been stated that the petitioner filled application form online on 10.04.2021 and thereafter, deposited fees online on 12.05.2021 and at the time of depositing the fees also, he did not reveal the fact regarding

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the FIR registered against him. Therefore, the petitioner misled the respondent-Department to get a Government job by wrong and illegal means.

4. Learned counsel for the petitioner submits that on account of some quarrel between the neighbours, one party got registered an FIR No.22 dated 03.03.2021 under Sections 323, 341, 148 & 149 of IPC at Police Station Kheri Gandian in which name of the petitioner was also mentioned. He submits that on the date of occurrence of the incident, there was a marriage of cousin of the petitioner and whole family of the petitioner was there in the marriage and was not aware about any quarrel as the house of the petitioner was not located there, where the quarrel took place and the petitioner was not in the knowledge of the pending FIR when he submitted online application on 10.04.2021. He further submits that although, the petitioner surrendered on 29.04.2021 and was released on bail by the police on furnishing bail bonds by the petitioner, however, inadvertently, he could not disclose the factum of pending FIR against him when he submitted the application to the respondent-Department on 13.05.2021. He further submits that the petitioner has already been acquitted in the said case by the Court of learned Judicial Magistrate First Class, Rajpura, vide judgment dated 20.01.2025 (Annexure P-11). Therefore, the action of the respondents in terminating the services of the petitioner is totally illegal and arbitrary and the petitioner is entitled to be reinstated in service with all consequential benefits. In support of his contentions, learned counsel for the petitioner has placed reliance upon the judgment



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of this Court passed in *CWP-7022-2019 titled as 'Sukhveer Vs. Union of India and others' decided on 13.01.2025.*

5. Per contra, learned State counsel has vehemently opposed the claim of the petitioner by stating that FIR No.22 under Sections 323, 341, 148 & 149 of IPC at Police Station Kheri Gandian was registered against the petitioner on 03.03.2021, whereas he submitted online application form for the post of Junior Engineer (Civil) on 10.04.2021 and therefore, his services have rightly been terminated by the respondent-Department as he committed fraud at the time of filling the application form and has given wrong information that no criminal case is pending against him. In support of his contentions, learned State counsel has placed reliance upon the judgment of Hon'ble Supreme Court in *Union of India and others Vs. Shishu Pal @ Shiv Pal : 2024 AIR Supreme Court 3652.*

6. I have heard learned counsel for the parties and perused the relevant documents.

7. Admittedly, FIR No.22 under Sections 323, 341, 148 & 149 of IPC at Police Station Kheri Gandian was registered against the petitioner on 03.03.2021. On 30.03.2021, online applications were invited by the Commission for the post of Junior Engineer (Civil) and last date for submission of application was 20.04.2021. The petitioner submitted his online application for the said post on 10.04.2021 and in the said application form with regard to the declarations he submitted as under :-

“Declarations :



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Are you in Government Service ?	NO
Have you ever been disqualified by Public/Union Public Service ?	NO
Period from Period To Reason	
Have you been convicted by Criminal Court ?	NO
Type of Case Date of Convicted Nature of Case	
Weather any Criminal Case was ever registered against you ?	NO
Type of case Proceeding Pending	
Do you posses requisite qualification as per Advertisement ?”	YES

7(i) Thereafter, the petitioner deposited the fee online on 12.05.2021 and submitted the application form to the respondent-Department on 13.05.2021 and even at that point of time also, he did not disclose the factum of registration of FIR against him. The Senior Superintendent of Police, Patiala, vide his letter dated 13.07.2023 (Annexure R-3) reported that during investigation of the said FIR registered against the petitioner, Investigating Officer conducted raids on 15.03.2021, 25.03.2021, 05.04.2021 & 15.04.2021, however, the house of the petitioner was found locked. Thereafter, on 29.04.2021, the petitioner appeared before the police and was arrested and released after he furnished bail bonds. Thus, it is clear that the petitioner was in the knowledge of registration of FIR against him but he concealed the said material fact from the respondent-Department while submitting his application form for the Government job. In the appointment letter Clause 16 to 18 reads as under :-

“16. Your character and antecedents should be approved by the District Magistrate.

17. You are to present a Medical Fitness Certificate from the Civil Surgeon.



18. If as per serial No.16 & 17 your character and antecedents and medical fitness or your relation with any illegal association then you will be dismissed from the service. Except it, if your character is not attested to be good then you will not be eligible to draw pay and other benefits.”

7(ii) The service of the petitioner have been terminated in consonance with the conditions of the appointment letter.

8. The Hon’ble Supreme Court in ***Union of India and others Vs. Shishu Pal @ Shiv Pal’s case (supra)***, while considering the similar issue has opined as under :-

“24. In the case at hand, the learned Single Judge has erred in accepting the submission made on behalf of the respondent that it was only after the appellants passed the order dated 24th June, 2014 removing him from service that he had inquired about the criminal case pending against him and later on, the respondent was acquitted in Criminal Case No.459/2011. As noted above, the said observations run contrary to the record itself that clearly reveals that the respondent was well-aware of the fact that a criminal case had been registered against him, he was taken into judicial custody and had subsequently applied for bail along with other co-accused in the said case which was granted by the trial Court on 04th October, 2011. All the aforesaid events had occurred well before 30th November, 2011, the date on which the respondent had filled up the Verification Roll. Therefore, it has to be observed that the respondent had complete knowledge of the registration of the FIR and pendency of the criminal cases. Despite that, he had wilfully withheld material information from the appellants while filling up the Verification Roll. He had further



misconducted himself when the appellants issued him a show-cause notice calling upon him to explain his position and falsely denied the allegations levelled against him in his reply to the notice to show cause that ultimately led to initiation of disciplinary proceedings against him.

25. xx xx xx xx xx

26. *Given the aforesaid facts and circumstances of the present case, we are of the firm view that there was no occasion for the learned Single Judge to have interfered in the orders dated 24th June, 2014 passed by the Disciplinary Authority terminating the service of the respondent, duly upheld by the Appellate Authority vide order dated 23rd September, 2014. The Appellate Court fell into the same error when it observed that it was incumbent for the appellants to have proven the fact that pendency of the criminal case was within the knowledge of the respondent and the said information had been deliberately withheld by him. The records speak to the contrary and make short shrift of such a plea taken by the respondent. The respondent does not deserve any latitude as it has been established beyond doubt that he was all along aware of the FIR registered against him with Barnhal Police Station, Mainpuri, Uttar Pradesh and the ensuing criminal cases. Not just that, the respondent failed to disclose that he had remained in judicial custody and on moving an application, was released on bail by the trial Court along with other co-accused.*

27. *In our opinion, the appellants have exercised their discretion as employers in a reasonable manner. On receiving a complaint against the respondent, not only was a show cause notice issued to him, all the relevant information was also furnished. On receiving his categorical denial in reply, the appellants proceeded with*



disciplinary proceedings against the respondent. The said proceedings were conducted in a fair manner and taken to their logical conclusion. Only thereafter did the Disciplinary Authority pass an order terminating the services of the respondent which order was upheld by the Appellant Authority, for just and valid reasons. Therefore, it cannot be urged that the decision of the appellants to terminate the services of the respondent was unjustified, tainted by any malafides or arbitrariness or too harsh.”

9. The Hon’ble Supreme Court in ***Government of NCT of Delhi and others Vs. Bheem Singh Meena : 2022(2) SCT 454***, while considering the earlier judgments in ***Avtar Singh Vs. Union of India and others : (2016) 8 SCC 471*** and ***Rajasthan Rajya Vidyut Prasaran Nigam Limited Vs. Anil Kanwariya : (2021) 10 SCC 136*** has held that giving of a wrong information dis-entitles the candidate for appointment. In the said judgment, the respondent-Bheem Singh Meena was appointed as Trained Graduate Teacher (TGT) of Mathematics after he was selected by the Delhi Subordinate Services Selection Board and after joining, an attestation form was given for verification of antecedents. Such attestation form was filled by him in which he has answered the question ‘have you ever been prosecuted’ in negative. He again filled the antecedent form, wherein again he denied that he was ever prosecuted. However, during verification, it was found that respondent-Bheem Singh Meena was involved in a case under Section 499/93, 147, 332, 353, 427 & 149 of IPC. In the said judgment, the Hon’ble Supreme Court has held as under :-

“7. *Learned counsel for the appellants refers to a three*



Judge Bench judgment of this Court reported as (2016) 8 SCC 471, titled as ‘Avtar Singh Vs. Union of India & Ors.’ wherein this Court considered the question of suppression of information or submitting false information in the verification form as to the question of having been criminally prosecuted, arrested or as to pendency of a criminal case. The whole idea of verification of character and antecedents is that the person suitable for the post in question is appointed. It is one of the important criteria which is necessary to be fulfilled before appointment is made. An incumbent should not have antecedents of such a nature which may adjudge him unsuitable for the post. This Court in Avtar Singh held as under:-

“38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize 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.”

8. The learned counsel for appellants also relied upon recent judgment of this Court reported as (2021) 10 SCC 136, titled as ‘Rajasthan Rajya Vidyut Prasaran Nigam Limited & Anr. Vs. Anil Kanwariya’ wherein this Court in para 14 held as under:

“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.”

9. xx xx xx xx xx

10. *We find that the respondent, seeking appointment to the post of trained graduate teacher, is not an illiterate or uneducated person who can claim the ignorance of the meaning of the word ‘prosecution’. Avtar Singh (supra) was a case of the appointment to the post of a constable. This Court has held that giving of a wrong information disentitles the candidate for appointment.*



11. *In the present case, the respondent is responsible for shaping career of young students. What kind of message he will be giving to the students by his conduct based on untruthfulness?”*

10. To the similar effect is the judgment of Hon’ble Supreme Court passed in ***Devendra Kumar Vs. State of Uttaranchal and others : 2013(4) SCT 482***, wherein it has been held as under :-

“10. 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.

11. It is a settled proposition of law that where an applicant gets an office by misrepresenting the facts or by playing fraud upon the competent authority, such an order cannot be sustained in the eyes of law. “Fraud avoids all judicial acts, ecclesiastical or temporal.” (Vide: S.P. Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs. & Ors., 1994(1) R.R.R. 253 : AIR 1994 Supreme Court 853. In Lazarus Estate Ltd. v. Besalay, 1956 All E.R. 349, the Court observed without equivocation that “no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything.”



12. *In Andhra Pradesh State Financial Corporation v. M/s. GAR Re-Rolling Mills & Anr.*, 1994(2) R.R.R. 38 : AIR 1994 Supreme Court 2151; and *State of Maharashtra & Ors. v. Prabhu*, (1994) 2 SCC 481, this Court has observed that a writ Court, while exercising its equitable jurisdiction, should not act to prevent perpetration of a legal fraud as Courts are obliged to do justice by promotion of good faith. “Equity is, also, known to prevent the law from the crafty evasions and subtleties invented to evade law.”

13. *In Smt. Shrisht Dhawan v. M/s. Shaw Bros.*, 1992(1) RCR (Rent) 442 : AIR 1992 Supreme Court 1555, it has been held as under:–

“Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct.”

14. *In United India Insurance Company Ltd. v. Rajendra Singh & Ors.*, 2000(2) RCR (Civil) 483 : AIR 2000 Supreme Court 1165, this Court observed that “Fraud and justice never dwell together” (*fraus et jus nunquam cohabitant*) and it is a pristine maxim which has not lost temper over all these centuries. A similar view has been reiterated by this Court in *M.P. Mittal v. State of Haryana & Ors.*, AIR 1984 Supreme Court 1888.

15. *In Ram Chandra Singh v. Savitri Devi & Ors.*, 2005(2) RCR (Civil) 696 : AIR 2004 Supreme Court 4096, this Court held that “misrepresentation itself amounts to fraud”, and further held “fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations which he knows to be false, and injury



ensues therefrom although the motive from which the representations proceeded may not have been bad.” The said judgment was reconsidered and approved by this Court in Vice-Chairman, Kendriya Vidyalaya Sangathan and Anr. v. Girdharilal Yadav, (2004) 6 SCC 325.

16. *The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit those persons who have frauded or misrepresented themselves. In such circumstances the Court should not perpetuate the fraud by entertaining petitions on their behalf. In Union of India and Ors. v. M. Bhaskaran, 1996(1) S.C.T. 469 : AIR 1996 Supreme Court 686, this Court, after placing reliance upon and approving its earlier judgment in District Collector & Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi, (1990) 3 SCC 655, observed as under:—*

“If by committing fraud any employment is obtained, the same cannot be permitted to be countenanced by a Court of Law as the employment secured by fraud renders it voidable at the option of the employer.”

17. *In Delhi Administration through its Chief Secretary and Ors. v. Sushil Kumar, (1996) 11 SCC 605, this Court examined the similar case where the appointment was refused on the post of Police Constable and the Court observed as under:*

“It is seen that verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though he was found physically fit, passed the written test and interview and was provisionally selected, on account of his antecedent



record, the appointing authority found it not desirable to appoint a person of such record as a Constable to the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offence, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequence. The consideration relevant to the case is of the antecedents of the candidate. Appointing authority, therefore, has rightly focused this aspect and found it not desirable to appoint him to the service.”

(Emphasis added)

18. *In Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav, 2003(3) S.C.T. 762 : AIR 2003 Supreme Court 1709; and A.P. Public Service Commission v. Koneti Venkateswarulu, 2006(1) S.C.T. 774: AIR 2005 Supreme Court 4292, this Court examined a similar case, wherein, employment had been obtained by suppressing a material fact at the time of appointment. The Court rejected the plea taken by the employee that the Form was printed in English and he did not know the language, and therefore, could not understand what information was sought. This Court held that as he did not furnish the information correctly at the time of filling up the Form, the subsequent withdrawal of the criminal case registered against him or the nature of offences were immaterial. “The requirement of filling*



column Nos. 12 and 13 of the Attestation Form” was for the purpose of verification of the character and antecedents of the employee as on the date of filling in the Attestation Form. Suppression of material information and making a false statement has a clear bearing on the character and antecedent of the employee in relation to his continuation in service.

19. *In State of Haryana & Ors. v. Dinesh Kumar, 2008(1) RCR (Criminal) 725 : 2008(1) Recent Apex Judgments (R.A.J.) 354 : AIR 2008 Supreme Court 1083, this Court held that there has to be a deliberate and wilful misrepresentation and in case the applicant was not aware of his involvement in any criminal case or pendency of any criminal prosecution against him, the situation would be different.*

20. *In Secretary, Department of Home, A.P. & Ors., v. B. Chinnam Naidu, (2005) 2 SCC 746, this Court held that facts are to be examined in each individual case and the candidate is not supposed to furnish information which is not specifically required in a case where information sought dealt with prior convictions by a criminal Court. The candidate answered it in the negative, the court held that it would not amount to misrepresentation merely because on that date a criminal case was pending against him. The question specifically required information only about prior convictions.*

21. *In R. Radhakrishnan v. Director General of Police and Ors., 2008(1) S.C.T. 20 : 2007(6) Recent Apex Judgments (R.A.J.) 402 : AIR 2008 Supreme Court 578, this Court held that furnishing wrong information by the candidate while seeking appointment makes him unsuitable for appointment and liable for removal/termination if he*



furnished wrong information when the said information is specifically sought by the appointing authority.

22. *In the instant case, the High Court has placed reliance on the Govt. Order dated April 28, 1958 relating to verification of the character of a Government servant, upon first appointment, wherein the individual is required to furnish information about criminal antecedents of the new appointees and if the incumbent is found to have made a false statement in this regard, he is liable to be discharged forthwith without prejudice to any other action as may be considered necessary by the competent authority.*

The purpose of seeking such information is not to find out the nature or gravity of the offence or the ultimate result of a criminal case, rather such information is sought with a view to judge the character and antecedents of the job seeker or suitability to continue in service. Withholding such material information or making false representation itself amounts to moral turpitude and is a separate and distinct matter altogether than what is involved in the criminal case.

23. *More so, if the initial action is not in consonance with law, the subsequent conduct of a party cannot sanctify the same. "Subla Fundamento cedit opus"- a foundation being removed, the superstructure falls. A person having done wrong cannot take advantage of his own wrong and plead bar of any law to frustrate the lawful trial by a competent Court. In such a case the legal maxim Nullus Commodum Capere Potest De Injuria Sua Propria applies. The persons violating the law cannot be permitted to urge that their offence cannot be subjected to inquiry, trial or investigation. (Vide: Union of India v. Maj. Gen. Madan Lal Yadav, 996(2) S.C.T. 347 : 1996(2) RCR (Criminal) 103*



: AIR 1996 SC 1340; and Lily Thomas v. Union of India & Ors., 2000(3) RCR (Civil) 252 : AIR 2000 Supreme Court 1650.”

11. To the same effect is the judgment of Hon’ble Supreme Court in ***State of Rajasthan and others Vs. Chetan Jeff : 2022(2) SCT 764***, wherein it has been held that where the employer feels that employee who at initial stage itself made false statement and/or not disclosed material facts and/or suppressed material facts cannot continued in service.

12. So far as the reliance placed by the petitioner in ***Sukhveer’s case (supra)*** is concerned, it is noticed that the facts of the said case were totally different and the said judgment is not applicable to the present case as in the said case, the Court had interpreted Rule 23 of Sashastra Seema Bal Rules, 2009 which stipulated that it is the discretion of the employer as to whether a person is to be continued on a post, when he is guilty of furnishing false or incorrect information, and as to whether such a discretion has ever been exercised in favour of an employee having given false or incorrect information by allowing him to continue in service. The relevant portion from the said judgment is as under :-

“A specific query was put to the counsel for the respondent-SSB by this Court that on a plain reading, language of Rule 23 of the SSB Rules, 2009 stipulates that it is the discretion of the employer as to whether a person is to be continued on a post, when he is guilty of furnishing false or incorrect information, and as to whether such a discretion has ever been exercised in favour of an employee



having given false or incorrect information by allowing him to continue in service, counsel feigns ignorance.

Having heard learned counsel for the parties and having gone through the documents available on record, the undisputed facts that emerge are that a criminal case had been registered against the petitioner at the time when the form of enrollment as well as the verification form was filled by him. It is also not in dispute that it was after the issuance of the show cause notice that the compromise had been entered into and the offence against the petitioner had been compounded. The criminal proceedings against the petitioner were dropped and he stood acquitted of the charges framed against him.

Further, there is no rebuttal to controvert the specific submission made by the counsel for the petitioner that he was attributed an overt act of causing a simple injury on the elbow of the injured, whereas the injury attracting Section 325 of IPC was attributed to the co-accused. The said aspect may be of material significance in the present case considering that in the guidelines issued by the Union of India pertaining to serious offences against a body, Section 323 IPC does not find a mention and only Section 325 of IPC is provided thereunder.

*This Court is also conscious of the fact that even though an applicant submitting an application for being appointed against a post is required to make an honest declaration regarding his antecedents, as may become relevant for assessing the suitability of a person, however, it is also required to be taken into consideration all the factors laid down in the judgment of **Avtar Singh (Supra)**.*

Besides, there has been no other case or allegation of any criminal antecedents or involvement of the



petitioner. Additionally, the socio-economic criteria and background of an applicant also needs to be taken into account to ascertain his mindset and approach towards withholding of an information. Such withholding of information, under the given socio-economic circumstances of the petitioner was seemingly not an act to commit concealment but was rather perpetuated by an anxiety to secure a job for upliftment of the family and for earning an honourable bread and butter.

It is also noticed that the recruitment of the petitioner is at the lowest post in SSB and he is not required to take supervisory/controlling decisions. In the nature of duties to be performed by him, he is required to perform compliance of the orders issued to him by the Competent Authority and has no implication in any policy matters. Such an aberration in disclosure may under exceptional circumstances be considered sympathetically, in the background of the compelling socio-economic circumstances.

Further, a perusal of Rule 23 of SSB Rules, 2009 shows the said Rule confers a discretion with the authority as to whether the services of a particular person are to be terminated or not and that it is not a mandatory provision. Hence, Rule itself leaves scope for continuance and to examine candidature of each person and his possibility of re-integration in the mainstream of the society. As a restitutive and rehabilitative measure, any stray act of involvement in any minor scuffle should not ordinarily stand in the way of a person for his entire life.

Still further, the Government of India, Ministry of Home Affairs has issued the policy guidelines for considering case of candidates for appointment in CAPFs vide Folio No.I-45020/6/2010-Pers.II dated 01.02.2012



wherein the circumstances in which a candidate would not be considered for recruitment have been prescribed in Clauses 2(II) and (III). The proviso thereto has a vital significance. The said clause is extracted hereinafter below:-

“2. Accordingly, the matter has been considered in this Ministry in consultation with CAPFs, and it has been decided as follows:

XXX XXX XXX

(II) If a candidate does not disclose his/her involvement and/or arrest in criminal case(s), complaint case(s), preventive proceedings etc. under IPC or any other Act of the Central or State Government in the application form but discloses the same during medical examination/PET and/or in the attestation/verification form, in writing, the candidature will not be cancelled on this ground alone.

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

- a) Such involvement/case/arrest is concerned with an offence mentioned in Annexure-A*
- b) Such arrest/detention is made under any of the Acts which are concerned with security and integrity of the country, terrorist and disruptive activities, acts against the state, insurgency, etc.*
- c) The candidate has been detained under the National Security Act/Crime Control*



Act/any similar legislation, and the same is confirmed by the reviewing authority.

- d) Such involvement/case arrest is concerned with an offence involving moral turpitude:*
- e) He/She has been convicted by a court in any case whether or not an appeal is pending against such conviction.*

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

Provided further that the candidate shall not be debarred if he/she has been finally acquitted/discharged by a Court, whether an appeal is pending or not against such acquittal.

Provided further that the candidate shall not be debarred if the proceedings are withdrawn by the Central/State Government.

Provided further that the candidate shall not be debarred if he/she has been involved/convicted/ concerned with minor offences mention in Annexure-B or those mentioned in Chapter VIII & X of Criminal Procedure, 1973.”

It is evident that a candidate is not to be debarred for being considered for recruitment if he or she has been acquitted or discharged by the Court notwithstanding pendency of an appeal against acquittal. The aforesaid proviso does not mandate that the acquittal/discharge must exist as on the date when the form of enrollment is submitted rather, emphasizes on the criminal proceedings



being finally resulting in acquittal/ discharge. In the absence of any such specific stage being prescribed, the interpretation to the benefit of the employee (petitioner herein) can be safely adopted. Significantly, the said guidelines were issued on 01.02.2012 whereas the appointment as well as the relieving of the petitioner was much beyond the issuance of the aforesaid guidelines but the authorities have failed to take note of these policy guidelines.

*Under the given circumstances and taking into consideration the totality of the facts noticed above as also the principles laid down by the Hon'ble Supreme Court in the matter of **Avtar Singh (Supra)** and as reiterated in the recent judgment of **Ravindra Kumar Versus State of U.P. and Others** reported as **(2024) 1 Law Herald (SC) 369**, I deem it appropriate to set aside the order dated 23.12.2016 (Annexure P-5) passed by Deputy Inspector General (Personnel), Sashastra Seema Bal terminating the services of the petitioner, being extreme and proportionately harsh.*

As a necessary consequence thereof, the respondents are directed to re-appoint the petitioner into the service, subject to the petitioner fulfilling medical fitness and physical fitness as prescribed by the respondent-Authorities. The petitioner shall not be paid any arrears for the period till the date of his re-joining but shall however be entitled to the notional consequential benefits for the aforesaid period except that the same shall not be counted as experience for his future consideration towards seniority and promotion.

It is further clarified that even though the instant petition was filed in the year 2019, however, on account of outbreak of COVID-19 pandemic, the same could not be heard and adjudicated expeditiously. Hence, the delay in



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adjudication of the present petition thus is not being allowed to stand in the way of an equitable relief to be granted to the petitioner.”

13. In the present case, there is an active concealment on the part of the petitioner as while filling online application form for the post of Junior Engineer (Civil) on 10.04.2021, the petitioner had concealed the material fact of registration of FIR No.22 dated 03.03.2021 against him and even while giving the said application to the respondent-Department on 13.05.2021, he also did not disclose the said fact. The services of the petitioner have been terminated by the respondent-Department strictly in terms of Clause 18 of the appointment letter. The said action is in conformity with the law laid down by Hon'ble Supreme in ***Union of India and others Vs. Shishu Pal @ Shiv Pal's case (supra)*** and ***NCT of Delhi and others Vs. Bheem Singh Meena's case (supra)***. Therefore, there is no illegality and infirmity in the action taken by the respondent-Department. So far as the judgement cited by the learned counsel for the petitioner is concerned, the same is not applicable to the facts and circumstances of the present case.

14. Moreover, the acquittal of the petitioner, vide judgment dated 20.01.2025 passed by learned Judicial Magistrate First Class, Rajpura, which is much after the termination of the petitioner, is of no consequence.

15. In view of the above, finding no merit in the instant petition, the same is hereby dismissed with no order as to costs.

09.12.2025

kothiyal

(NAMIT KUMAR)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No