

Court No. - 4

Case :- WRIT - A No. - 17940 of 2019

Petitioner :- Anil Sonkar

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Karma Singh Yadav,Om Prakash,Pawan Kumar Vishwakarma,Satyawan Yadav,Shiv Bahadur Singh,Suresh Chandra Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Heard Shri S.B. Singh, learned counsel appearing for the petitioner and learned Additional Chief Standing Counsel for the State-respondent.
2. By means of this petition filed under Article 226 of the Constitution, the petitioner has prayed for quashing the order dated 10.12.2018 passed by respondent no. 4/Superintendent of Police, District Azamgarh, whereby candidature of the petitioner's came to be rejected on the ground that he concealed a material fact regarding pendency of the criminal case being Case Crime No. 178 of 2014, under Sections 323, 354, 504, 506 IPC, P.S.- Rani Ki Sarai, District- Azamgarh.
3. It is contended by learned counsel for the petitioner that ground of filing of an application and even while giving affidavit of declaration to the selecting body, petitioner was not aware of pendency of any such criminal case. Pleadings to this effect has been taken in paragraph no. 27 of the petition which has stood not denied. It is further contended that pendency of the criminal case could be known to the petitioner only subsequently and now he has been acquitted in the said criminal case on 10.07.2018 in Criminal Case No. 1968 of 2016 by the Judicial Magistrate, Azamgarh. It is thus contended that now since the petitioner has been acquitted,

the petitioner's candidature ought not to have been canceled merely on the ground that he had concealed fact. According to him authority ought to have been taken pragmatic view considering the fact that there is no criminal history of the petitioner and in light of the guidelines laid down by the Hon'ble Supreme Court in the case of **Avtar Singh Vs. Union of India and others, (2016) 8 SCC 471**.

Paragraph No. 38 of the judgment has 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.

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 recourse 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."

4. Learned counsel for the petitioner has also placed reliance upon the judgment of the Hon'ble Supreme Court in the case of ***Ravindra Kumar Vs. State of U.P. and others, 2024 0 Supreme (SC) 151*** in which paragraph no. 28 has held as under:-

"28. The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgment of acquittal; the nature of query in the application/verification form; the contents of the character verification reports; the social 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."

5. Thus in view of the above, learned counsel for the petitioner submits that merely for a simple non declaration of a criminal case should not have made a ground to reject more specially when the petitioner has stood acquitted on 10.07.2018.

6. Learned Additional Chief Standing Counsel submits that this selection pertains to the year 2016 advertisement and thereafter subsequently in the year 2023 also recruitment on the post of

Constable has been held and therefore, post must have been carried forward and hence there would not be any availability of the post. However, he is not averse to the reconsideration being directed in the matter of petitioner in the event he approaches again the authority representing the mater.

7. In view of the above, more especially in the circumstances when petitioner has stood acquitted in the criminal case prior to the passing of the order impugned, I consider it appropriate for the petitioner to approach the concerned authority again along with certified copy of this order and the authority would be passing revisiting the matter to accommodate the petitioner in the event vacancy is available on post of Constable after finalization of selection in the year 2023. Appropriate order shall be passed within a maximum period of one month of presentation of the certified copy of this order with ignoring the order impugned dated 10.12.2018 passed by respondent no. 4 which shall abide by the final order to be passed by the concerned authority again as directed here-in-above.

8. In view of the above direction, this petition stands disposed of.

Order Date :- 14.7.2025

Sharad/-