



2025:AHC:163424

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 13751 of 2025

Bhagvan Singh

.....Petitioner(s)

Versus

The State Of U.P. And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Akhilesh Kumar Tripathi, Atipriya Gautam, Rishabh Kesarwani, Sr. Advocate
Counsel for Respondent(s)	: C.S.C.

Court No. - 4

HON'BLE AJIT KUMAR, J.

1. Heard Sri Vijay Gautam, learned Senior Advocate assisted by Sri Pratysh Srivastava, learned Advocate holding brief of Ms. Atipriya Gautam, learned counsel for the petitioner as well as Sri Gaurav Singh, learned Standing Counsel for the State.
2. By means of this petition filed under Article 226 of the Constitution, petitioner is seeking a writ in the nature of mandamus directing the respondent no. 2 to reconsider the claim of the petitioner for appointment on the basis of select list prepared for the post of Sub Inspector (Direct Recruitment) in Uttar Pradesh Sub-Inspector (Civil Police) and Platoon Commander (PAC) Joint Examination - 2011.
3. It is argued on behalf of the petitioner that there were two criminal cases against the applicant regarding which he had made sufficient declaration while he applied for the post. However, he stood finally acquitted vide detailed judgment and order dated 17.11.2020 passed in Criminal Case No. 33 of 2020 in connection with Case Crime No. 1000 of 2013, under Section 222 of erstwhile IPC, P.S. Kotwali, District Budaun and the judgment and order dated 28.04.2025 passed in Criminal Case No. 2000421 of 2016 in connection with Case Crime No. 178 of 2016, under Sections 332, 353, 354-A, 354-D of erstwhile IPC and Section 7 Criminal Law Amendment Act, P.S. Vrindawan, District Mathura.
4. It is submitted by Sri Gautam, learned Senior Advocate that in relation to Examination - 2011 order was passed by Supreme Court on 27.11.2018 in Civil Appeal No. 11370 of 2018 directing for appointment process and hence it was started and vacancies, in respect of which petitioner also finds place in select list, was never carried forward to next selection.
5. It is thus argued that in the given facts and circumstances, petitioner's candidature can be reconsidered by respondent concerned in the light of

judgment of Supreme Court in **Avtar Singh v. Union of India and others 2016 (8) SCC 471** in which vide para 38 guidelines have been laid down. Petitioner approaches the authority and the Court directs the authority to revisit the matter. Para 38 of Avtar Singh (supra) is quoted hereunder:

"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. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.3. 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."*

6. Sri Gautam submits that there is no other criminal antecedent attached to the applicant except above two criminal cases in which he has been finally acquitted. It is also pleaded vide paras 35 and 39 of the writ petition that there is no further appeal instituted by the complainant or by the State against the order of acquittal.

7. *Per contra* it is argued by learned Standing Counsel that even if a person has been acquitted in criminal case discretion to give employment to such person vests with the employer and even if acquittal has been there if for benefit of doubt as to the commission of offence or for prosecution witnesses turning hostile in the light of judgment of Supreme Court in the light of judgment of Supreme Court in the case of **Union of India v. Santosh Kumar Singh, Civil Appeal No. 8889 of 2022** decided on 26.04.2023; **Imtiyaz Ahmad Mulla v. State of Jammu & Kashmir, Special Leave Petition (C) No. 678 of 2021**, decided 28.02.2023.

8. Be that as it may, since petitioner has been acquitted in criminal cases, he deserves reconsideration in the light of principles of law laid down in Avtar Singh (supra) case.

9. In view of the above, this petition stands **disposed of** with a direction to the petitioner to make a fresh representation before the respondent no. 5 within a period of four weeks from today along with the certified copy of this order, and if he does so, the same shall be considered and decided within a further period of one month by means of reasoned and speaking order.

(Ajit Kumar,J.)

September 15, 2025

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