

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

Writ Petition Nos.19473, 20881, 20882, 20884, 20889 and 20897 of 2017

DATED:10-11-2017

W.P. No.19473 of 2017

Between:

The State Level Police Recruitment Board
State of Andhra Pradesh,
Rep. by its Chairman
at Hyderabad
and others

... Petitioners

And

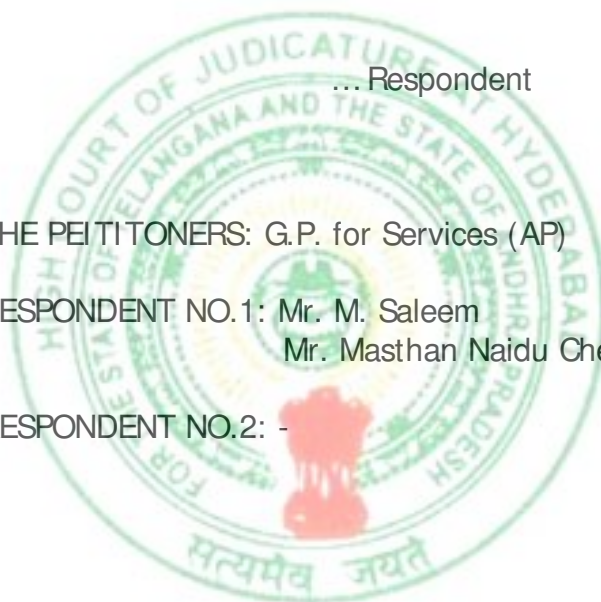
P. Vinay

... Respondent

COUNSEL FOR THE PETITIONERS: G.P. for Services (AP)

COUNSEL FOR RESPONDENT NO.1: Mr. M. Saleem
Mr. Masthan Naidu Cherukuri

COUNSEL FOR RESPONDENT NO.2: -



THE COURT MADE THE FOLLOWING:

COMMON JUDGMENT: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This batch of writ petitions filed by the State against the common order of the Andhra Pradesh Administrative Tribunal (for short, "the Tribunal") raises a question which frequently visits the Courts and the Tribunals with respect to which divergent opinions exist in abundance. The question is whether a candidate to a civil post in general and in the police department in particular, incurs disqualification for being appointed or his services are liable to be terminated after appointment on the ground of suppression/non-disclosure/furnishing of false information regarding his involvement in a criminal case.

2. The judgments of the Apex Court reflect a dichotomy of views. One set of the judgments propounded the theory that a candidate giving misleading information and/or giving false information cannot claim right to the post or continue in service, and that the purpose of seeking information as per relevant columns was not to find out either the nature or gravity of the offence or the result of a criminal case ultimately, but to judge the character and antecedents of the candidate so as to decide his suitability or otherwise to the service he supposedly enter. The following judgments have taken this view.

*Union of India v. M. Bhaskaran*¹, *Delhi Administration v. Sushil Kumar*², *Bank of Baroda v. Central Government Industrial Tribunal*³, *Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav*⁴ *Department of Home, A.P. v. B. Chinnam Naidu*⁵, *R. Radhakrishnan v. Director General of Police*⁶, *Union of India v. Bipad Bhanjan Gayen*⁷, *Daya Shankar Yadav v. Union of India*⁸, and *State of West Bengal v. Sk. Nazrul Islam*⁹.

¹ 1995 Supp. (4) SCC 100

² (1996) 11 SCC 605

³ (1999) 2 SCC 247

⁴ (2003) 3 SCC 437

⁵ (2005) 2 SCC 746

⁶ (2008) 1 SCC 660

⁷ (2008) 11 SCC 314

⁸ (2010) 14 SCC 103

⁹ (2011) 10 SCC 184

3. A converse view was however taken by the Supreme Court in *Commissioner of Police v. Dhaval Singh*¹⁰, *Kamal Nayan Mishra v. State of M.P.*¹¹, *Commissioner of Police v. Sandeep Kumar*¹² and *Ram Kumar v. State of U.P.*¹³.

4. Faced with the cleavage of the opinions, all of which were incidentally rendered by two-Judge Benches, another two-Judge Bench of the Supreme Court in *Jainendra Singh v. State of Uttar Pradesh*¹⁴, while recording its own opinion, however, referred the issue to a three-Judge Bench for an authoritative pronouncement. During the pendency of the matter before the said Bench, *Commissioner of Police, New Delhi v. Mehar Singh*¹⁵ came to be disposed of by another two-Judge Bench. The Bench felt that as the points formulated for consideration by the three-Judge Bench in *Jainendra Singh* (14 supra) were premised on consideration of the facts in that case and in the case before it the applicant has disclosed his involvement in a criminal case in his application/attestation form, it is not necessary to defer the judgment till the reference was answered by the three-Judge Bench. It has accordingly disposed of the case on merits. It is also noteworthy that during the pendency of the case before the three-Judge Bench, a Division Bench of this Court dealing with W.P. No.3004 of 2005 (*B. Ramakrishna Yadav v. Superintendent of Police, Kurnool District*) also referred the same issue to a Full Bench, finding conflicting opinions between two Division Bench judgments, i.e., *A. Sagar v. State Level Police Recruitment Board, Hyderabad*¹⁶, and *K. Prasada Rao v. Sub-Divisional Inspector (Postal), Giddalur Sub-Division, Giddalur, Prakasam District*¹⁷.

¹⁰ (1999) 1 SCC 246

¹¹ (2010) 2 SCC 169

¹² (2011) 4 SCC 644

¹³ (2011) 14 SCC 709

¹⁴ (2012) 8 SCC 748

¹⁵ (2013) 7 SCC 685

¹⁶ 2002 (6) ALT 468 (DB)

¹⁷ 2003 (5) ALT 833 (DB)

5. We would like to first discuss the judgments in *Mehar Singh* (15 supra) and *B. Ramakrishna Yadav v. Superintendent of Police, Kurnool District*¹⁸. In *Mehar Singh* (15 supra), the applicant for the post was prosecuted along with others for the offence punishable under Sections 143, 323, 341 and 427 of the Indian Penal Code (IPC), before he applied for the post of Constable (Executive) (Male). He was acquitted of the offence under Section 147 IPC for want of evidence as the witnesses turned hostile. As regards the offences under Sections 323, 341 and 427 of IPC, he was acquitted along with others in view of the compromise entered into with the de facto complainant. The applicant has disclosed his involvement in the criminal case and his acquittal during the character and antecedents verification. The screening committee constituted by the Commissioner of Police, Delhi, has observed that Mehar Singh and others had assaulted the bus conductor with iron chain, belt and stones in a pre-planned manner and caused injuries to him which showed Mehar Singh's violent nature and scant respect for the law of the land. The screening committee therefore did not recommend his case for appointment to the post of Constable. Based on the recommendations of the screening committee, a show cause notice was issued to Mehar Singh by the Deputy Commissioner of Police (Recruitment), New Delhi. Not satisfied with the explanation offered by Mehar Singh, his candidature was cancelled for the post of Constable (Executive) (Male). The O.A. filed by him before the Central Administrative Tribunal, Principal Bench, New Delhi, was allowed. The Commissioner of Police, New Delhi and others filed a writ petition before the Delhi High Court, which dismissed the writ petition holding that as Mehar Singh was acquitted of the offences with which he was charged, he cannot be disqualified for appointment. Feeling aggrieved by the said judgment, The Delhi Police Commissioner and others have filed appeal by Special Leave. The

¹⁸ 2016 (1) ALT 709 (FB)

Supreme Court considered Standing Order No.398/2010 issued by the Delhi Administration envisaging various situations. One such situation was that if a candidate had disclosed his/her involvement in criminal case, complaint case, preventive proceedings, etc., both in the application form as well as in the attestation form but was acquitted or discharged by the court, his/her case will be referred to the Screening Committee of PHQ to assess his/her suitability for appointment in Delhi Police. The Standing Order also categorises the offences involved in moral turpitude as under:

- “1. Criminal Conspiracy (Section 120-B IPC)
2. Offences against the State (Sections 121 – 130 IPC)
3. Offences relating to Army, Navy and Air Force (Sections 131-134 IPC)
4. Offence against public tranquillity (Section 153-A and 153-B IPC)
5. False evidence and offences against Public Justice (Sections 193-216-A IPC)
6. Offences relating to coin and government stamps (Sections 231-263-A IPC).
7. Offences relating to religion (Section 295-297 IPC)
8. Offences affecting human body (Sections 302-304, 304-B, 305-308, 311-317, 325-333, 335, 347, 348, 354, 363-373, 376-376-A, 376-B, 376-C, 376-D, 377 IPC)
9. Offences against property (Section 379-462 IPC)
10. Offences relating to documents and property marks (Sections 465-489 IPC)
11. Offences relating to Marriage and Dowry Prohibition Act (Section 498-A IPC).”

6. While recognizing the power of the screening committee to keep the persons involved in grave cases of moral turpitude out of the police force where the acquittal is not honourable, or the acquittal or discharge is based on technical grounds, the Supreme Court has dealt with the aspect of standard of proof in criminal cases and the disciplinary proceedings, and held that acquittal based on benefit of doubt would not stand on par with clean acquittal on merits after full-fledged trial, where there is no indication of the witnesses being won over. The Supreme Court also dealt with the meaning/expression “honourable acquittal” with reference to the judgments in *Inspector General of Police v. S. Samuthiram*¹⁹ and *RBI v. Bhopal Singh Panchal*²⁰. It has observed that “if it is found by the Screening Committee that the person against whom a serious case involving moral turpitude is registered, is discharged on technical grounds or is acquitted of the same charge but the acquittal is not

¹⁹ (2013) 1 SCC 598

²⁰ (1994) 1 SCC 541

honourable, the Screening Committee would be entitled to cancel his candidature. Stricter norms need to be applied while appointing persons in a disciplinary force because public interest is involved in it.”

7. Dealing with the plea of Mehar Singh, that he has disclosed his involvement in a criminal case showing his fairness, the Court observed “We do not see how this fact improves their case. Disclosure of these facts in the application/attestation form is an essential requirement. An aspirant is expected to state these facts honestly. Honesty and integrity are inbuilt requirements of the police force. The respondents should not, therefore, expect to score any brownie points because of this disclosure. Besides, this has no relevance to the point in issue. It bears repetition to state that while deciding whether a person against whom a criminal case was registered and who was later on acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of doubt because the witnesses turned hostile, or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future. This decision, in our opinion, can only be taken by the Screening Committee created for that purpose by the Delhi Police. If the Screening Committee’s decision is not mala fide or actuated by extraneous considerations, then, it cannot be questioned.”

8. Emphasizing on the importance of honesty and high degree of rectitude to be maintained by the Police personnel, the Supreme Court observed as under:

“The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or

discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent times, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by the Delhi Police to ensure that persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of the trust reposed in it and must treat all candidates with an even hand."

In conclusion, the Supreme Court agreed with the opinion of the Screening Committee in the case of Mehar Singh as well as another person by name Sushil Kumar, as endorsed by the Deputy Commissioner of Police and confirmed by the judgment of the Delhi High Court.

9. In *B. Ramakrishna Yadav* (18 supra) the Full Bench dealing with the reference, has framed the following point for decision:

"Whether suppression of information by the candidate, applying for an employment, regarding his involvement in a criminal case, could be the ground for either rejecting his candidature or canceling his selection or terminating the service, if he has already been appointed?"

After noticing the conflicting judgments of the Supreme Court, the Full Bench has opined that suppression of information by a candidate regarding his involvement in a criminal case is one thing and whether to appoint or to terminate such person after the information of his involvement in a criminal case is surfaced, is another thing. Taking note of the fact that the case before it involved suppression of information regarding involvement in a criminal case by the candidate, the Full Bench held:

"...if a candidate were to suppress the information relating to his involvement in a criminal case and if it is surfaced before appointment or at the stage of verification of antecedents, more particularly when such an information was

specifically sought for, it is open to the appointing authority to deny appointment to or terminate such employee.”

The Full Bench further held:

“Verification of character and antecedents is one of the important features in service jurisprudence so as to find out whether a selected candidate is suitable to the post. Having regard to the antecedents of a candidate, if appointing authority finds that it is not desirable to appoint such person, in particular to a disciplined force, it can deny employment or even terminate such person, if appointed, within the shortest possible time from the date of verification of character and antecedents. This has to be scrupulously followed in case of recruitment in police force, it being a disciplined force. As observed by the Supreme Court in Mehar Singh (supra), people repose great faith and confidence in the police force, and therefore, the selected candidate must be of confidence, impeccable character and integrity. A person having criminal antecedents is, undoubtedly, not fit in this category, more particularly when he has suppressed the information about his involvement in criminal case(s) irrespective of the fact whether the case was pending or he was acquitted.”

10. While drawing the distinction between petty cases, such as, offences relating to traffic, municipal and other petty offences under the IPC, committed at a young age, and more serious offences, the Full Bench, however, felt that it is imperative for the candidate to disclose all such information leaving it open to the appointing authority to decide whether to appoint such person having regard to the gravity of the offence allegedly committed and proximity of time with reference to the nature of job for which he is being considered or to be appointed and that while considering such candidate, who in all fairness has disclosed such information, the employer should not act mechanically to deny employment or reject application of such a candidate at threshold. It has further held that in any case, a candidate who suppress the information and/or gave false information in respect of his character and antecedents, cannot, as of right, seek an order of appointment contending that he has been acquitted of the case. That, if such a candidate is selected and appointed and if at the stage of verification of antecedents, any information is gathered or surfaced, which would amount to

misrepresentation and fraud on the employer or suppression of information, it would not create equity in his favour or any estoppel against the employer to resort to his termination and that such candidate cannot claim any right to continue in service and the employer, having regard to the nature of employment as well as other relevant factors, has a discretion to either reject his candidature or not to appoint such candidate or to terminate his services, if he was appointed, on the basis of the information received at that stage. The Full Bench finally concluded as under:

“In short, the candidate, who suppressed material information and/or given false information regarding his antecedents and character, cannot have any right of appointment or continuity in service. It is, however, always open to the employer/appointing authority to exercise its discretion in the facts and circumstances of each case keeping in view the principles laid down by the Supreme Court.”

11. The Full Bench declared that the judgment in *A. Sagar* (16 supra), holding that as the candidate was acquitted on merits in the criminal cases registered against him for the offence punishable under Section 379 IPC, by the time he was selected and appointed as Police Constable, his candidature can be considered and that he is entitled to be appointed even though he has stated “No” against Column No.12 wherein he was required to disclose whether he was arrested by the Police, convicted by a court or detained of any offence”, did not lay down the correct position of law.

12. After the judgments of the Supreme Court in *Mehar Singh* (15 supra) and that of the Full Bench of this Court in *B. Ramakrishna Yadav* (18 supra), the three-Judge Bench of the Supreme Court disposed of the case, referred in *Jainendra Singh* (14 supra) vide *Avtar Singh v. Union of India*²¹. The Supreme Court has made a copious reference to the judgments taking conflicting views. We, however, noticed that the judgment in *Mehar Singh* (15 supra) was not brought to the notice of the three-Judge Bench and as a result, the said

²¹ (2016) 8 SCC 471

judgment was not considered. Though *Mehar Singh* (15 supra) was not discussed by the three-Judge Bench in *Avtar Singh* (21 supra), there is a correlation of views between the two judgments as regards a case where a candidate has even disclosed his involvement in criminal case. Dealing with the aspect of suppression of involvement in criminal cases by the candidates, the Supreme Court in *Avtar Singh* (21 supra) posed the following question for consideration:

“...If on verification of antecedents a person is found fit at the same time authority has to consider effect of suppression of a fact that he was tried for trivial offence which does not render him unfit, what importance to be attached to such non-disclosure. Can there be single yardstick to deal with all kinds of cases?”

After a brief reference to each of the judgments on the point, the Supreme Court summarized its conclusions as under:

“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."

(emphasis is ours)

13. Paragraph 32 of the judgment preceding the above reproduced conclusions, which deals with the consequences of suppression of material facts or submitting false information, is relevant for the purpose of the present cases and the same is extracted herein below.

"32. No doubt about it that once verification form requires certain information to be furnished, declarant is duty-bound to furnish it correctly and any suppression of material facts or submitting false information, may by itself lead to termination of his services or cancellation of candidature in an appropriate

case. However, in a criminal case incumbent has not been acquitted and case is pending trial, employer may well be justified in not appointing such an incumbent or in terminating the services as conviction ultimately may render him unsuitable for job and employer is not supposed to wait till outcome of criminal case. In such a case non-disclosure or submitting false information would assume significance and that by itself may be ground for employer to cancel candidature or to terminate services."

(emphasis is ours)

14. At the first blush paragraph-32 suggests that non-disclosure or submitting false information by itself may be a ground for the employer to cancel the candidature or to terminate his services. The same, however, needs to be understood in the light of paragraph 38 of the judgment. A reading of paragraphs 38.4.1 to 38.11 would lead us to understand that the act of deliberate suppression of a candidate's involvement in a criminal case need not be taken serious note, if the offences are trivial nature, such as, shouting slogans at young age and one if disclosed would not have rendered an incumbent unfit for post in question. In such cases, the Court held, the employer may in its discretion, ignore such suppression of fact or false information by condoning the lapse. Even in a case of truthful disclosure of a candidate's involvement in a criminal case, the Supreme Court held that the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

15. In this context, the judgment in *S. Samuthiram* (19 supra), which was also not brought to the notice of the Apex Court in *Avtar Singh* (21 supra) assumes relevance. In that case, the employee was an Armed Reserve Police and a criminal complaint was registered against him for eve-teasing. The departmental proceedings were also initiated against him for his highly reprehensible conduct in behaving in a disorderly manner with a married lady in a drunken state. He was found guilty of the charges framed in the departmental proceedings and was accordingly dismissed from service on 04.1.2000. While the O.A. filed by him before the Tamil Nadu Administrative

Tribunal, Chennai, against his dismissal order was pending, he was acquitted of all the charges in the criminal case. When the said judgment was placed before the Tribunal, it declined to place reliance on the same on finding that both the wife and husband who gave complaint against the delinquent turned hostile. After detailed discussion on the expression “honourable acquittal”, the Supreme Court made the following observations which are significant for the present purpose.

“26. ...We are not prepared to say that in the instant case, the respondent was honourably acquitted by the criminal court and even if it is so, he is not entitled to claim reinstatement since the Tamil Nadu Service Rules do not provide so.

27. We have also come across cases where the service rules provide that on registration of a criminal case, an employee can be kept under suspension and on acquittal by the criminal court, he be reinstated. In such cases, the reinstatement is automatic. There may be cases where the service rules provide that in spite of domestic enquiry, if the criminal court acquits an employee honourably, he could be reinstated. In other words, the issue whether an employee has to be reinstated in service or not depends upon the question whether the service rules contain any such provision for reinstatement and not as a matter of right. Such provisions are absent in the Tamil Nadu Service Rules.”

(emphasis is ours)

The ratio that could be culled out from *S. Samuthiram* (19 supra) is that legality or otherwise of the action of authorities has to be judged from the extant Rules governing the service and not based on generic proposition of law.

16. Having discussed the legal position, we shall now refer to the facts of each case in brief. In pursuance of notification dt.31.10.2011 issued by petitioner No.1 – State Level Police Recruitment Board, State of Andhra Pradesh, respondent No.1 in W.P. Nos.19473 of 2017 applied for the post of Stipendiary Cadet Trainee Police Constable (SCTPC) (APSP)(Men), respondent No.1 in W.P. Nos.20881 and 20889 applied for SCTPC (Civil) (Men), respondent No.1 in W.P. No.20882 and 20897 of 2017 applied for the post of

SCTPC (AR)(Men), and respondent No.1 in W.P. No.20884 of 2017 applied for the post of Fireman in the Andhra Pradesh Fire & Emergency Department. Column No.16 of the attestation form required to be filled up by the candidates reads as follows:

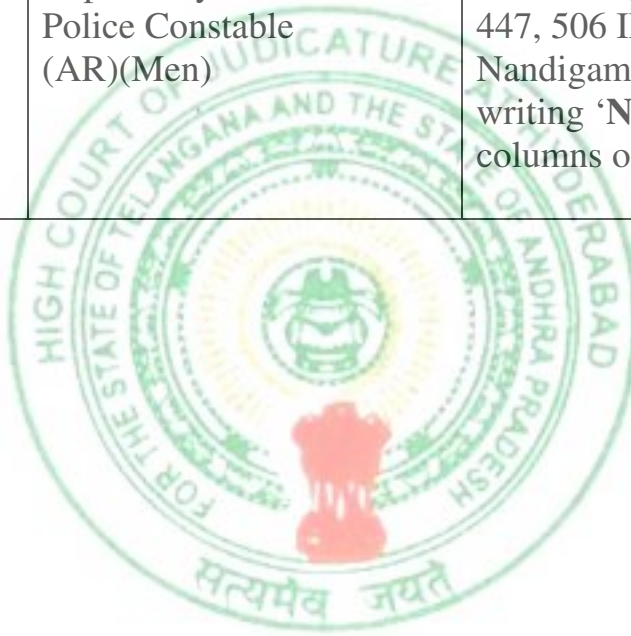
16.	Whether you were involved in any criminal case?		Yes	No
	If yes, indicate			
	a) Crime No			
	b) Year			
	c) Name of the Police Station			
	d) Name of the district			
	e) Whether you were ever arrested by the police? (even in a petty case or under preventive sections)		Yes	No
	f) Whether you were prosecuted by the police in a court of law? If so, indicate the present stage of this case:			
	1) under trial 2) convicted 3) compounded 4) acquitted			
	Note: 1) If convicted whether such conviction sustained in the Court of Appeal or set aside by the appellate Court if appealed against			
	2) If involved in a criminal case subsequent to the completion and submission of this form, the details should be informed immediately to the authority to whom the attestation form has been submitted earlier failing which it will be deemed to be a suppression of factual information			
3) If you were involved in more than one criminal case: If yes, give details in separate paper in the above proforma		Yes	No	

Respondent No.1 - selectees in these cases have filled up column No.16 by stating “No”. However, during verification, it came to light that they were involved in criminal cases and before employment notification was issued the same were closed either due to compounding or compromise. The following table contains the relevant details.

S.No.	Case No.	O.A.No. & Date of Judgment	Date of notification & Post applied/selected for	Information furnished regarding criminal case	Status of criminal cases
1	W.P.No.19473 of 2017	3770 of 2014 27-9-2016	31-10-2011 Stipendiary Cadet Trainee Police Constable (APSP)(Men)	Suppressed the factum of involvement and arrest in Cr.No.79 of 2001 registered under Section 509, 341, 323 r/w. Section 34 IPC of Eluru III Town P.S., by writing 'NO' in the relevant columns of the Attestation Form.	Arrested on 20-4-2011 i.e., prior to the publication of notification Case was compounded on 21-4-2011 before the Lok Adalat, Eluru, prior to the publication of notification
2	W.P.No.20881 of 2017	3772 of 2014 27-9-2016	31-10-2011 Stipendiary Cadet Trainee Police Constable (Civil)(Men)	Suppressed the factum of involvement and arrest in Cr.No.23 of 2011, registered under Section 324 r/w. Section 34 IPC of Kruthiveenu P.S., Krishna District by writing 'NO' in the relevant columns of the Attestation Form	Arrested on 18-3-2011 i.e., prior to the publication of notification Case was compounded on 5-5-2012 before Lok Adalat i.e., after publication of notification

3	W.P.No.20882 of 2017	10650 of 2012 27-9-2016	31-10-2011 Stipendiary Cadet Trainee Police Constable (AR)(Men)	Suppressed the factum of involvement and arrest in Cr.No.46 of 2011 registered under Sections 147, 148, 324 r/w. section 149 and Section 3(1)(x) of SC & ST (PoA) Act, of Narpala P.S., Anantapuram District by writing 'NO' in the relevant columns of the Attestation Form	Arrested on 29-9-2011 i.e., prior to publication of notification C.C.No.145 of 2012 - Case was compromised on 5-2-2012 i.e., after publication of notification
4	W.P.No.20884 of 2017	3786 of 2014 27-9-2016	31-10-2011 Fire Man in A.P. Fire & Emergency Dept	Suppressed the factum of involvement in Cr.No.118 of 2007 registered under Sections 324 r/w. Section 34 IPC of Bathalapalli P.S., Anantapuram District by writing 'NO' in the relevant column of the Attestation Form.	Arrested on ----- C.C.No.657 of 2007 – Case was compromised before Lok Adalat, (JFCM, Dharmavaram) on 4-9-2010 i.e., prior to the publication of notification
5	W.P.No.20889 of 2017	3774 of 2014 27-9-2016	31-10-2011 Stipendiary Cadet Trainee Police Constable (Civil)(Men)	Suppressed the factum of involvement in Cr.No.160 of 2011 registered under Sections 506, 509 IPC of Duggirala P.S., Guntur District by writing 'NO' in the relevant columns of the Attestation Form.	Arrested on --- C.C.No. --- Case was compounded on 5-5-2011 before Lok Adalat, Guntur i.e.,

					prior to publication of notification
6	W.P.No.20897 of 2017	3775 of 2014 27-9-2016	31-10-2011 Stipendiary Cadet Trainee Police Constable (AR)(Men)	Suppressed the factum of involvement and arrest in Cr.No.112 of 2007 registered under Sections 447, 506 IPC r/w. Section 34 IPC of Nandigama P.S., Krishna District by writing 'NO' in the relevant columns of the Attestation Form	Arrested on 17-5-2007 Case was compounded before the Lok Adalat, Krishna District, on 19-05-2007 i.e., prior to the publication of notification



17. As the selectees were otherwise qualified, they were provisionally selected. As their involvement in criminal cases came to light later during verification of antecedents, by separate orders, their provisional selections were cancelled. In all these orders, cancellation of their candidature was based on a common ground, namely, suppression of their involvement in criminal cases. Assailing these orders, respondent No.1 - selectees filed separate O.As before the Tribunal. The Tribunal referred to the nature of the offences and held that they are not heinous like, murder, rape, involving moral turpitude and that even if their involvement was disclosed, they would not have been disentitled for appointment. The Tribunal also held the view that the acquittal by Lok Adalat would erase the stigma.

18. In our opinion, the Tribunal has not examined the issue in proper perspective. It has failed to consider Rule 3(G) of the A.P. Police (Stipendiary Cadet Trainee) Rules, 1999 (for short, "the Rules"), as amended vide G.O. Ms. No.97, Home (Legal.II), 1st May, 2006, on which heavy reliance was placed by the petitioners. This Rule reads as under:

"(G) Disqualification for appointment: The candidates falling under the following categories shall be disqualified for appointment under these rules.

- (i) Suppression of material facts (either in the application form or in the attestation form)*
- (ii) If the candidate himself or through his relatives or friends or any other has canvassed or endeavoured to enlist extraneous support whether from official or non-official sources for his candidature.*
- (iii) A person (a) who has entered into or contracted a marriage with a person having a spouse living, or (b) who, having a spouse living, has entered into or contracted a marriage with any other person. Provided that the State Government may, if satisfied that such marriage is permissible under the personal law applicable to such person, exempt any person from the operation of this rule.*
- (iv) A person who has been dismissed from the services of a State or Central Government or from the service of any Central or State Government undertaking or local body or other authority.*
- (v) A person who has been convicted for any offence in any court of law.*

(vi) *A person who is involved in an offence involving moral turpitude."*

(emphasis supplied)

19. Indubitably an applicant seeking employment in Police force is expected to make a fair disclosure of their antecedents for, as held in *Mehar Singh* (15 supra), for a disciplined force like Police Department, a fair disclosure is an essential requirement and an aspirant is expected to state these facts honestly, which is an inbuilt requirement of any public employment. This obligation to make a fair disclosure was incorporated in the above-mentioned Rule itself and the consequences of failure to discharge this obligation is also made explicit in the said Rule. Not only that respondent No.1 in these cases have failed to disclose their involvement in criminal cases, they have also gone a step further by making a blatantly false statement of "No", against column No.16. As held in paragraph 32 of the judgment in *Avtar Singh* (21 supra), the conduct of respondent No.1 in these cases, in submitting false information itself constitutes a ground to cancel their candidature and such action is well in tune with Rule 3-G(i) of the Rules and also in conformity with the ratio in *S. Samuthiram* (19 supra) as discussed above. Assessment of suitability of a candidate to a disciplined force is judged not only with reference to his previous antecedents, but also on the basis of his propensity to remain honest in the service. The candidate, who tells a deliberate lie when specifically asked, cannot be taken even with a pinch of salt and he is wholly unworthy of being drafted into the Police Department which calls for highest degree of honesty and rectitude. In our opinion, furnishing of false statement would even dwarf his earlier conduct of his involvement in a criminal case. In our understanding, the quintessence of the judgments in *Mehar Singh* (15 supra) and *Avtar Singh* (21 supra) cannot be understood as laying down the proposition that the conduct of a candidate in deliberate suppression can either have no relevance or can be ignored, if the offences in which they are

involved are not heinous in nature. We reiterate that the summary of the conclusions in paragraph 38 of judgment in *Avtar Singh* (21 supra) cannot be understood in isolation by divorcing from paragraph 32 in case of non-disclosure of/submitting false information, more so, when a specific Rule is envisaged that such conduct would disqualify the candidate.

20. The learned counsel for respondent No.1 - selectees placed strong reliance on the observations of the two-Judge Bench of the Supreme Court in *Sandeep Kumar* (12 supra). In that case, a person who was selected for the post of Head Constable (Ministerial) was disqualified on the ground that he has suppressed the fact of his involvement in a criminal case. The Court took note of the fact that when the alleged incident has happened, the candidate was 20 years of age and observed that at that age young people often commit indiscretions, that such indiscretions can often be condoned and that the Courts' approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives. A reading of the facts of the said case would show that while in his application the candidate did not mention the fact of his involvement in criminal case, he has, however, disclosed the said fact in the attestation form. On those facts, the Supreme Court gave the benefit of doubt to the candidate by observing that probably he did not mention the fact of his involvement in a criminal case in the application out of fear that if he did so, he would automatically be disqualified. The Court also made an observation in passing that the nature of the offence alleged against the candidate was not such a serious offence like murder, dacoity or rape and that therefore more lenient view should be taken. In our opinion, the judgment in *Sandeep Kumar* (12 supra) turns on its own facts which don't bear similarity with the cases on hand. In the former case, the candidate in the first instance has not disclosed the fact of his involvement in a criminal case, though at a later stage he came out clean by revealing his

involvement while filling up the attestation form, whereas in the present cases, respondent No.1 – selectees have not only suppressed the fact of their involvement in criminal cases, but also they made false representation as if they have not involved in criminal case. Therefore, the observations of the Supreme Court in *Sandeed Kumar* (12 supra) cannot be of any help to respondent No.1 – selectees.

21. As regards the reasoning that the compromise by the Lok Adalat would obliterate the stigma, the Tribunal has overlooked the ratio in *Mehar Singh* (15 supra) in this regard. Indeed, in that case also Mehar Singh has compromised before the Lok Adalat and an argument was put forth that if the acquittal recorded pursuant to the compromise is treated as disqualification, the same will frustrate the purpose of the Legal Services Authorities Act, 1987. This argument was conclusively repelled by the Supreme Court with the following reasoning.

“...We see no merit in this submission. Compromises or settlements have to be encouraged to bring about peaceful and amiable atmosphere in the society by according a quietus to disputes. They have to be encouraged also to reduce arrears of cases and save the litigants from the agony of pending litigation. But these considerations cannot be brought in here. In order to maintain integrity and high standard of police force, the Screening Committee may decline to take cognizance of a compromise, if it appears to it to be dubious. The Screening Committee cannot be faulted for that.”

22. On the above analysis, we are of the opinion that the candidature of respondent No.1 in each of these cases was rightly cancelled by petitioner No.1 due to their false representations about their past involvement in criminal cases. Their subsequent acquittal notwithstanding, they were rightly disqualified based on Rule 3-G(i) of the Rules. The Tribunal has erroneously set aside the orders cancelling the candidature of respondent No.1 - selectees in these cases. Hence, the impugned order of the Tribunal is set aside. The writ petitions are accordingly allowed.

As a sequel to disposal of the writ petitions, pending miscellaneous petitions shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

10-11-2017

am/bnr

*Note: LR copies to be marked.
(B.O)
bnr*

