

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE**

PRESENT

**THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA
AND
THE HON'BLE SRI JUSTICE N. TUKARAMJI**

WRIT APPEAL NO: 550 OF 2016

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 31.03.2016 passed in WP No. 22991/2012 on the file of the High Court.

Between:

Balram Shukla, S/o Shri Ram Asrey Shukla Aged about 33 years, Occ:
Ex.R.T.C.T.No.031419872, O/o Commandant 141 Bn C.R.P.F., Hyderabad, A.P.,
R/o Singhpur, Post Jahangeer Gunj, Ambedkar Nagar, Uttar Pradesh.
...APPELLANT/PETITIONER

AND

1. Union of India, Rep. by its Principal Secretary, Ministry of Home Affairs, New Delhi.
2. The Inspector General of Police., Southern Sector C.R.P.F., Keshogiri, Hyderabad, A.P.
3. Deputy Inspector General of Police., Southern Sector, C.R.P.F., Hyderabad, A.P.
4. Commandant, 141.BN C.R.P.F. Hyderabad, A.P., -
...RESPONDENTS/RESPONDENTS

Counsel for the Appellant: SMT. RACHNA KUMARI

**Counsel for Respondent No. 1: SRI N. RAJESHWAR RAO
ASSISTANT SOLICITOR GENERAL**

Counsel for Respondent Nos. 2 to 4: GP FOR HOME

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE N. TUKARAMJI

WRIT APPEAL No.550 of 2016

JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present writ appeal is arising out of the judgment dated 31.03.2016 passed by the learned Single Judge in W.P.No.22991 of 2012.

The undisputed facts of the case reveal that the appellant before this Court was appointed as Constable in the services of Central Reserve Police Force. However, in the verification Roll under Column 12-A, he has suppressed the information regarding involvement in a criminal case by mentioning 'No'. In those circumstances, his services were put to an end by an order dated 05.06.2005 against which an appeal was preferred. The same was dismissed on 05.02.2006. The learned Single Judge has dismissed the writ petition. Paragraphs 4 to 8 of the order passed by the learned Single Judge are reproduced as under:-

"4. In the instant case, the petitioner herein was appointed in the year 2003 as constable in the Central Reserved Police Force. In the verification Roll under Column 12-A i.e., with regard to involvement in Criminal Cases, the petitioner herein admittedly mentioned as 'No'. On the ground that the petitioner herein falsely mentioned about his involvement in the

criminal case, the 4th respondent herein terminated the petitioner from the service.

5. According to the learned counsel for the petitioner herein, the said aspect cannot be treated as fatal as the petitioner herein was acquitted of the criminal charges subsequently.

6. This question is no longer *Res integra*. In the case of **B.RamaKrishna Yadav and another Vs. The Superintendent of Police and Another** (2016(2) ALD 340), a full bench of this Court at Paragraph Nos.11 and 12, held as under:

"11. In this backdrop, we would now like to deal with the question that falls for our consideration. Suppression of information by the 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 is surfaced is another. Similarly, whether to appoint such person, who has fairly disclosed the information of his involvement in a criminal case in the application form, is also a question, which the appointing authority has to decide. In other words, it is for the employer/appointing authority to take a call and decide whether such person should be appointed having regard to various factors that could be taken into consideration.

11.1 In the present case, we are considering a situation where there was suppression of information relating to involvement in a criminal case by the candidate. Keeping that in view and having regard to the judgments of the Supreme Court and the principles culled out therein, we are of the opinion, 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.

12. 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 discipline 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 Commissioner of Police, New Delhi v. Mehar Singh ((2013) 7 SCC 685), 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."

7. In view of the ratio laid down in the above referred judgment, the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India.

8. Accordingly, Writ Petition is dismissed. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs."

Learned counsel for the appellant has placed reliance upon the judgment delivered in **Avtar Singh v. Union of India** (Special Leave Petition (C) No.20525 of 2011, dated 21.07.2016) and her contention is that the matter deserves to be remanded back to the appointing authority keeping in view the aforesaid judgment.

This Court has carefully gone through the aforesaid judgment. Paragraph 30 of the aforesaid judgment is reproduced as under:-

"30. 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:

(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.

(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.

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

(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 :-

(a) 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.

(b) Where conviction has been recorded in case which is not trivial in nature, employer may

cancel candidature or terminate services of the employee.

(c) 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.

(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.

(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.

(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.

(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.

(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.

(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.

(11) Before a person is held guilty of *suppressio veri* or *suggestio falsi*, knowledge of the fact must be attributable to him."

Paragraph 30(4) of the aforesaid judgment deals with certain contingencies in respect of conviction or acquittal already been recorded before the filing of application/verification form. However, in the present case, the acquittal was on 01.10.2003 and the appointment was done on 16.06.2003. Meaning thereby, at the time when the form was submitted, there was no acquittal at all and therefore, the judgment relied upon does not help the appellant and no case for interference is made out in the matter.

The writ appeal is accordingly dismissed. The miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

SD/- M. RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Smt. Rachna Kumari Advocate [OPUC]
2. One CC to Sri Namavarapu Rajeswara Rao, Assistant Solicitor General (OPUC)
3. Two CCs to GP For Home, High Court for the State of Telangana. [OUT]
4. Two CD Copies
5. One Spare Copy

MBC
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HIGH COURT

DATED: 31/12/2021



JUDGMENT

WA.No.550 of 2016

DISMISSING THE WRIT APPEAL

WITHOUT COSTS

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