

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

LPA-1215-2021 (O&M)
Date of decision:- 27.07.2022

Ex. Const. Raical

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. G.S. Gopera, Advocate,
for the appellant.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

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RAVI SHANKER JHA, C.J. (ORAL)

This appeal has been directed against the judgement and order dated 19.01.2021 passed by the learned Single Judge dismissing the writ petition filed by the petitioner (appellant herein), wherein he had challenged order dated 02.08.2017 discharging him from the service of Constable with immediate effect.

The brief facts leading to the filing of the present appeal are that, pursuant to an advertisement dated 19.07.2015, the appellant had applied for the post of Constable. The appellant, as per the general instructions contained in the advertisement, specifically, general instruction (iii) which is available at page 87 (Annexure R-1), was required to mention the fact of any criminal case against him as the said clause provided that “a candidate against whom a criminal case stands registered and is under investigation or pending trial or who has been convicted by a Court of law need not apply”.

It is an admitted and undisputed fact that the appellant had mentioned in the application form that he had never been prosecuted/fined/convicted in any criminal case and was eligible to apply for the post of Constable. Pursuant to the advertisement, the selection process was undertaken by the authorities and the select list was published on 24.06.2017. The appellant having been selected was allotted to 2nd Battalion, Haryana Armed Police (HAP), Madhuban for appointment as temporary Constable on 26.06.2017.

It is also admitted and stated by the petitioner himself in the writ petition that prior to issuance of the advertisement and filing of the application form, he had been prosecuted and convicted by the trial Court vide judgement dated 20.02.2015 for the offence punishable under Sections 148 and 323 read with Section 149 of the Indian Penal Code and punishment of one year simple imprisonment alongwith fine of Rs. 500/- was imposed upon him.

It is also an admitted and undisputed fact and fairly conceded before this Court that this fact was not mentioned in the application form and in fact incorrect information was stated in the application form as it was stated that no case had ever been instituted, nor had the appellant been convicted in any case. It is also fairly stated by learned counsel for the appellant that had he mentioned this fact, he would not have been eligible to apply for the post in terms of general instruction (iii) of the advertisement.

Pursuant to the selection of the appellant, he was required to fill up the verification-cum-attestation form copy whereof has been placed before this Court as Annexure R-4 at page 102. From a perusal thereof, it is evident that when the appellant was asked to give information as to whether he had ever been prosecuted/fined/convicted by a Court of law, in column No. 13 (I) (a), (e) and (f) he had stated "No". However, in column 13(I)(i) of the verification-cum-attestation form, when he was asked as to whether any case was pending against him in a Court of law at the time of filling up of the attestation form, he had stated "Yes". In column 14, wherein he was required to give full particulars of conviction and sentence, in case he was convicted, he had simply stated "Yes" and that an appeal was "pending in ADJ Hisar" without disclosing full particulars, as required by the verification-cum-attestation form, in respect of the criminal case that had been filed/pending against him in which he had been prosecuted, the Court that convicted him and the sentence that was imposed upon him.

It is also an admitted and undisputed fact that subsequent to the appellant being allotted a constabulary number, a complaint was received by the appointing authority to the effect that he had suppressed the fact that he was convicted earlier upon which a clarification report was called from the competent authority. The character verification report dated 06.07.2017 has also been placed on record as Annexure R-3 in which the said authorities have clearly given the details of the criminal case that had been instituted against the appellant and in which he was convicted. The said authorities have also stated

that the information regarding the appellant's conviction, first of all, was not received and available with the police authorities and, therefore, at the initial stage, this information had not been furnished, but it is only when the judgement of the trial Court alongwith the complaint was received, verification in respect of the criminal was made and a detailed report was submitted.

It is also an admitted and undisputed fact that pursuant to the receipt of this report, the authorities had passed the impugned order dated 02.08.2017 discharging the appellant from service with immediate effect under Rule 12.21 of the Punjab Police Rules, 1934 as he was unlikely to prove an efficient police officer.

The learned Single Judge has dismissed the writ petition filed by the petitioner on the ground that he had obtained the appointment by suppressing the material fact of his conviction in a criminal case and in such circumstances, no fault can be found with the order discharging him from service.

Learned counsel for the appellant by relying on the judgements of the Supreme Court in *Avtar Singh Vs Union of India* (2016) 8 SCC 471 and *Pawan Kumar Vs Union of India* (Civil Appeal No(s). 3574 of 2022, decided on 02.05.2022) submits that in such circumstances, as the authorities have not applied their mind to the gravity or triviality of the offence committed by the appellant, the sentence imposed upon him and such other material facts relating to the criminal case that was instituted against him, the impugned order be quashed and the matter be remitted back to the authorities for re-examination in terms of *Avtar Singh's* and *Pawan Kumar's* cases (supra).

We have heard learned counsel for the parties at length.

From the undisputed and admitted facts of the case, it is clear that the appellant was ineligible to apply for the post of Constable in view of general instruction (iii) of the advertisement. However, he suppressed the material fact regarding his conviction and applied for the post as if he was a person having a clean criminal record and, thus, played fraud with the authorities. The authorities on the basis of the information supplied by the appellant in the application form considered and processed his case.

It is further evident that at the time of filling up of the verification-cum-attestation form, the appellant cleverly stated "No" in respect of clauses 13 (b), (e) and (f) and even thereafter when he stated "Yes" in column 14 regarding his conviction, he had not given any particulars in respect

of the case FIR number that was registered against him, wherein he was convicted by the learned Judicial Magistrate 1st Class, Hansi vide judgement dated 20.02.2015 and against which an appeal was pending before the learned Additional Sessions Judge, Hisar, wherein he was ultimately acquitted of the charges by giving benefit of doubt. It is pertinent to note that column 14 of the verification-cum-attestation form requires and mandates the appellant to furnish full particulars of the case in which he was convicted. Admittedly and undisputedly, the appellant has not done so. It is also an admitted and undisputed fact that on a complaint being filed against the appellant, the fact of his conviction was brought to the notice of the authorities, whereupon they immediately passed the order discharging him from service.

The learned counsel for the parties have rightly stated that the entire procedure that is required to be followed by the authorities in such cases has now been statutorily prescribed under Rule 12.18 of the Rules of 2015 and the authorities have duly followed the same. Rules 12.18(2), 12.18(3), 12.18.3(a), 12.18(4) and 12.21 of the Punjab Police Rules (Haryana Amended Rule, 2015) (in short Rules of 2015) read as under:-

“Rule 12.18. Verification of Character and antecedents:-

(1)xx

(2) The candidate shall disclose the fact regarding registration of FIR or criminal complaint against him for any offence under any law along-with the current status of such case in application form and verification cum attestation form irrespective of the final outcome of the case. Non-disclosure of such information shall lead to disqualification of the candidature our-rightly, solely on this ground:

Provided that where a candidate, who is a juvenile had earlier come in conflict with law and was dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, shall not suffer any disqualification on account of non-disclosure of this fact either in application form or verification cum attestation form.

(3) Where the appointing authority upon verification of character and antecedents of the candidate recommended for appointment comes to know that criminal proceedings against a candidate is in progress and the status of the case is reported to be either under investigation or challenged or cancelled or sent untraced or withdrawn or under trial or has either been convicted or acquitted or the candidate has preferred appeal against the order of the court; the appointing authority upon verification shall deal with the cases of candidates reported to

have criminal cases registered against them and to the matters connected therewith as stated hereinafter:

(a) Where, a candidate is found to have been convicted for an offence involving moral turpitude or punishable with imprisonment of three years or more, shall not be considered for appointment.

(4) If it is ever revealed that a candidate has got appointment either by concealment of facts or by furnishing false or wrong information or by submitting fake or forged document/certificate, he shall be discharged from the service by the appointing authority from the date of appointment, summarily i.e. without holding a regular disciplinary proceedings, treating him ineligible for service and salary paid to him may also ordered to be recovered.

12.21. Discharge of inefficient:-

A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule.”

The general instructions, specifically, instruction (iii) contained in the advertisement and the provisions of the Rules of 2015 quoted above clearly indicate that the appellant was in fact admittedly and undisputedly ineligible to apply for the post on account of his conviction, but he did so by suppressing the fact of his prosecution and conviction and obtained a favourable consideration of his case by playing fraud with the authorities. It is also evident that the authorities on discovery of the fact of suppression of material information have taken action against the appellant which is in terms of and in accordance with the provisions of Rules 12.18(4) and 12.21 of the Rules of 2015.

It is pertinent to note that Rule 12.18(4) clearly and squarely applies to the appellant's case and justifies the order passed by the authorities discharging the petitioner even if the authorities have not specifically mentioned Rule 12.18(4) in the impugned order and have only referred to Rule 12.21. The source of power being referable to Rule 12.18(4) as well as other clauses of Rule 12, mere non-mention of Rule 12.18(4) alongwith Rule 12.21 does not in any manner affect the correctness or validity of the order discharging the petitioner.

In the backdrop of the aforesaid admitted and undisputed facts, the contention raised by learned counsel for the appellant that the impugned order be set aside and the matter be remitted back to the authorities for re-

examination considering the triviality of the offence cannot be accepted.

In addition to the above, the Supreme Court in the case of *Devendra Kumar Vs. State of Uttaranchal and others* (2013) 9 SCC 363 has clearly held that in such cases, the mere fact of suppression of information in itself amounts to moral turpitude and is sufficient to reject or cancel the appointment granted to an employee irrespective of the gravity or triviality of the offence committed by him or the fact that he has been granted acquittal on the basis of benefit of doubt and other such factors. The decision in the case of *Devendra Kumar* (supra) has been followed and reiterated by the Supreme Court in *Rajasthan Rajya Vidyut Prasaran Nigam Limited and another Vs. Anil Kanwariya* (2021) 10 SCC 136; *State of Rajasthan and others Vs Chetan Jeff*, 2022 SCC OnLine SC 597 and *Government of NCT of Delhi & Ors. Vs. Bheem Singh Meena* (Civil Appeal No. 2599 of 2022, dated 31.03.2022).

The Supreme Court while delivering the aforesaid decisions has also considered the decision in the case of *Avtar Singh* (supra). The law, in this regard, has been laid down by the Supreme Court in the following terms:-

“8. While considering the aforesaid issues, few decisions of this Court on appointment obtained by fraud/misrepresentation and/or appointment obtained by suppression of material facts are required to be referred to and considered.

8.1. In State of A.P. Vs. B. Chinnam Naidu (2005) 2 SCC 746, this Court has observed that the object of requiring information in the attestation form and the declaration thereafter by the candidate is to ascertain and verify the character and antecedents to judge his suitability to enter into or continue in service. It is further observed that when a candidate suppresses material information and/or gives false information, he cannot claim any right for appointment or continuance in service.

8.2. In Devendra Kumar (supra), while joining the training, the employee was asked to submit an affidavit giving certain information, particularly, whether he had ever been involved in any criminal case. The employee submitted an affidavit stating that he had never been involved in any criminal case. The employee completed his training satisfactorily and it was at this time that the employer in pursuance of the process of character verification came to know that the employee was in fact involved in a criminal case. It was found that the final report in that case had been submitted by the prosecution and accepted by the Judicial Magistrate concerned. On the basis of the same, the employee was discharged abruptly on the ground that since he was a temporary government servant, he could be removed from service without holding an enquiry. The said order was challenged by the employee by filing a writ petition before a Single Judge of the High Court which was dismissed. The Division Bench upheld that order, which was the subject matter of appeal before this Court. Dismissing the appeal, this Court observed and held that the question is not whether the employee

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. It is further observed that the information sought by the employer if not disclosed as required, would definitely amount to suppression of material information and 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.

8.3. It is further observed by this Court in Devendra Kumar (supra) that where an applicant/employee gets an order by misrepresenting the facts or by playing fraud upon the competent authority, such an order cannot be sustained in the eye of the law. "Fraud avoids all judicial acts, ecclesiastical or temporal". It is further observed and held that dishonesty should not be permitted to bear the fruit and benefit those persons who have defrauded or misrepresented themselves and in such circumstances the court should not perpetuate the fraud by entertaining petitions on their behalf.

8.4. The relevant observations in the said decision are in paras 12, 13, 18 & 25, which are as under:

12. 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.

13. 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 eye of the law. "Fraud avoids all judicial acts, ecclesiastical or temporal." [Vide S.P. Chengalvaraya Naidu v. Jagannath (1994) 1 SCC 1: In Lazarus Estates Ltd. v. Beasley [(1956) 1 QB 702: (1956) 2 WLR 502: (CA)] the Court observed without equivocation that: (QB p. 712)

".. 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."

18. 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 v. M. Bhaskaran (1995) Supp (4) SCC 100 this Court, after placing reliance upon and approving its earlier judgment in Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi (1990) 3 SCC 655, observed as under: (M. Bhaskaran case, SCC p. 104, para 6)

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.

25. More so, if the initial action is not in consonance with law, the subsequent conduct of party cannot sanctify the same. Sublato fundamento cadit 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. Madan Lal Yadav (1996) 4 SCC 127; 1996 SCC (Cri) 592; and Lily Thomas v. Union of India (2000) 6 SCC 224; 2000 SCC (Cri) 1056.] Nor can a person claim any right arising out of his own wrongdoing (jus ex injuria non oritur).

8.5. In Jainendra Singh Vs. State of U.P., (2012) 8 SCC 748, this Court summarised the principles to be considered in a case where the appointment is obtained by misrepresentation and/or suppression of facts by candidates/appointees as under:

29.1. Fraudulently obtained orders of appointment could be legitimately treated as voidable at the option of the employer or could be recalled by the employer and in such cases merely because the respondent employee has continued in service for a number of years, on the basis of such fraudulently obtained employment, cannot get any equity in his favour or any estoppel against the employer.

29.2. Verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to the post under the State and on account of his antecedents the appointing authority if find not desirable to appoint a person to a disciplined force can it be said to be unwarranted.

29.3. When appointment was procured by a person on the basis of forged documents, it would amount to misrepresentation and fraud on the employer and, therefore, it would create no equity in his favour or any estoppel against the employer while resorting to termination without holding any inquiry.

29.4. A candidate having suppressed material information and/or giving false information cannot claim right to continue in service and the employer, having regard to the nature of employment as well as other aspects, has the discretion to terminate his services.

29.5. The purpose of calling for information regarding involvement in any criminal case or detention or conviction is for the purpose of verification of the character/antecedents at the time of recruitment and suppression of such material information will have clear bearing on the character and antecedents of the candidate in relation to his continuity in service.

29.6. The person who suppressed the material information and/or gives false information cannot claim any right for appointment or continuity in service.

29.7. The standard expected of a person intended to serve in uniformed service is quite distinct from other services and, therefore, any deliberate statement or omission regarding a vital information can be seriously viewed and the ultimate decision of the appointing authority cannot be faulted.

29.8. An employee on probation can be discharged from service or may be refused employment on the ground of suppression of material information or making false statement relating to his involvement in the criminal case, conviction or detention, even if ultimately he was acquitted of the said case, inasmuch as such a situation would make a person undesirable or unsuitable for the post.

29.9. An employee in the uniformed service pre-supposes a higher level of integrity as such a person is expected to uphold the law and on the contrary such a service born in deceit and subterfuge cannot be tolerated.

29.10. The authorities entrusted with the responsibility of appointing Constables, are under duty to verify the antecedents of a candidate to find out whether he is suitable for the post of a Constable and so long as the candidate has not been acquitted in the criminal case, he cannot be held to be suitable for appointment to the post of Constable."

8.6. In Daya Shankar Yadav Vs. Union of India, (2010) 14 SCC 103, this Court had an occasion to consider the purpose of seeking the information with respect to antecedents. It is observed and held that the purpose of seeking the information with respect to antecedents is to ascertain the character and antecedents of the candidate so as to assess his suitability for the post. It is further observed that when an employee or a prospective employee declares in a verification form, answers to the queries relating to character and antecedents, the

verification thereof can lead to any of the following consequences:

"15...(a) If the declarant has answered the questions in the affirmative and furnished the details of any criminal case (wherein he was convicted or acquitted by giving benefit of doubt for want of evidence), the employer may refuse to offer him employment (or if already employed on probation, discharge him from service), if he is found to be unfit having regard to the nature and gravity of the offence/crime in which he was involved.

(b) On the other hand, if the employer finds that the criminal case disclosed by the declarant related to offences which were technical, or of a nature that would not affect the declarant's fitness for employment, or where the declarant had been honourably acquitted and exonerated, the employer may ignore the fact that the declarant had been prosecuted in a criminal case and proceed to appoint him or continue him in employment.

(c) Where the declarant has answered the questions in the negative and on verification it is found that the answers were false, the employer may refuse to employ the declarant (or discharge him, if already employed), even if the declarant had been cleared of the charges or is acquitted. This is because when there is suppression or non-disclosure of material information bearing on his character, that itself becomes a reason for not employing the declarant.

(d) Where the attestation form or verification form does not contain proper or adequate queries requiring the declarant to disclose his involvement in any criminal proceedings, or where the candidate was unaware of initiation of criminal proceedings when he gave the declarations in the verification roll/attestation form, then the candidate cannot be found fault with, for not furnishing the relevant information. But if the employer by other means (say police verification or complaints, etc.) learns about the involvement of the declarant, the employer can have recourse to courses (a) or (b) above."

Thereafter, it is observed and held that an employee can be discharged from service or a prospective employee may be refused employment on the ground of suppression of material information or making false statement in reply to queries relating to prosecution or conviction for a criminal offence (even if he was ultimately acquitted in the criminal case).

8.7. In State of M.P. Vs. Abhijit Singh Pawar, (2018) 18 SCC 733, when the employee participated in the selection process, he tendered an affidavit disclosing the pending criminal case against him. The affidavit was filed on 22.12.2012. According to the disclosure, a case registered in the year 2006 was pending on the date when the affidavit was tendered. However, within four days of filing such an affidavit, a compromise was entered into

between the original complainant and the employee and an application for compounding the offence was filed under Section 320 Cr.P.C. The employee came to be discharged in view of the deed of compromise. That thereafter the employee was selected in the examination and was called for medical examination. However, around the same time, his character verification was also undertaken and after due consideration of the character verification report, his candidature was rejected. The employee filed a writ petition before the High Court challenging rejection of his candidature. The learned single Judge of the High Court of Madhya Pradesh allowed the said writ petition. The judgment and order passed by the learned single Judge directing the State to appoint the employee came to be confirmed by the Division Bench which led to appeal before this Court. After considering catena of decisions on the point including the decision of this Court in the case of Avtar Singh (supra), this Court upheld the order of the State rejecting the candidature of the employee by observing that as held in Avtar Singh (supra), even in cases where a truthful disclosure about a concluded case was made, the employer would still have a right to consider antecedents of the candidate and could not be compelled to appoint such candidate.

8.8. *After reproducing and/or re-considering para 38.5 of the decision in the case of Avtar Singh (supra), in paragraph 13, this Court observed and held as under:*

13. In Avtar Singh (supra), though this Court was principally concerned with the question as to non-disclosure or wrong disclosure of information, it was observed in para 38.5 that even in cases where a truthful disclosure about a concluded case was made, the employer would still have a right to consider antecedents of the candidate and could not be compelled to appoint such candidate.

8.9. *In the said decision, this Court also considered the conduct on the part of the employee in getting discharge on the basis of the compromise which was obtained within a period of four days of filing the affidavit/disclosure. In paragraph 14, it is observed and held as under:*

14. In the present case, as on the date when the respondent had applied, a criminal case was pending against him. Compromise was entered into only after an affidavit disclosing such pendency was filed. On the issue of compounding of offences and the effect of acquittal under Section 320(8) of CrPC, the law declared by this Court in Mehar Singh (2013) 7 SCC 685, specially in paras 34 and 35 completely concludes the issue. Even after the disclosure is made by a candidate, the employer would be well within his rights to consider the antecedents and the suitability of the candidate. While so considering, the employer can certainly take into account the job profile for which the selection is undertaken, the severity of the charges levelled against the candidate and whether

the acquittal in question was an honourable acquittal or was merely on the ground of benefit of doubt or as a result of composition.

9. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, the impugned order passed by the Division Bench dismissing the appeal and confirming the order passed by the learned single Judge quashing and setting aside the order of termination terminating the services of the employee on the ground of non-disclosure/suppression of material fact and filing a false declaration and directing the appellants to reinstate the respondent-employee is unsustainable.”

The Supreme Court has further addressed the issue and observed 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.”

It is also pertinent to note that though the appellant has heavily relied on the decisions of the Supreme Court in *Avtar Singh* and *Pawan Kumar* (supra), the question as to whether the act of suppression in itself amounts to moral turpitude and is sufficient to discharge or cancel the candidature of an applicant without going into the fact that he had been convicted for an offence that was either serious or trivial or whether the acquittal was on the basis of benefit of doubt was not considered and decided by the Supreme Court in the cases of *Avtar Singh* and *Pawan Kumar* (supra), but has in fact been decided in the cases of *Devendra Kumar; Rajasthan Rajya Vidyut Prasaran Nigam*

Government of NCT of Delhi and others (supra), wherein it was held that the act of suppression in itself amounts to moral turpitude as well as goes to the very root of trustworthiness of the applicant which directly affects his credibility and trustworthiness and in such cases the acquittal, triviality of the offence, clean acquittal or acquittal on the basis of benefit of doubt etc. are all irrelevant factors.

The reliance placed by the appellant on the decisions of the Supreme Court in the cases of *Avtar Singh* (supra) and *Pawan Kumar* (supra) is also mis-conceived on the ground that the procedure required to be followed by the authorities in cases like the present one is statutorily prescribed by Rule 12.18 of the Rules of 2015 and as the authorities have duly followed the same and their decision is based upon and is in consonance with the provisions of Rule 12.18, therefore, it has rightly been upheld by the Single Bench in the writ petition.

The contention of the appellant that certain other persons, who had also not disclosed the information regarding criminal cases against them, have been considered by the authority and therefore, the appellant, who is similarly situated, should also be given the same benefit and that the act of the respondents in denying the appellant similar treatment amounts to violation of the appellant's fundamental rights under Article 14 of the Constitution of India is heard only to be rejected as the concept of negative equality is not contemplated under Article 14 of the Constitution of India.

The Supreme Court in *State of U.P. and others Vs Rajkumar Sharma and others* (2006) 3 Supreme Court Cases 330; *State of West Bengal and others Vs Debasish Mukherjee and others* (2011) 14 Supreme Court Cases 187; *P. Singaravelan and others Vs District Collector, Tiruppur and Dt and others* (2020) 3 Supreme Court Cases 133 and *R. Muthukumar and others vs. Chairman and Managing Director Tangedco and others* 2022 SCC Online SC 151, has clearly held that in cases where some illegal benefit has been given or accorded to some persons, the Court in exercise of its extra ordinary power cannot direct the authority to confer similar illegal benefit to the appellant as the High Court under Article 226 of the Constitution of India cannot direct the authority to commit and perpetuate an illegality nor can High Court direct the authority to continue to commit illegalities simply because they have done so on some previous occasions. The contention of the counsel for the appellant being misconceived is accordingly rejected.

In view of the aforesaid, as it is an admitted fact that the appellant had obtained appointment by suppressing the material fact of his conviction in the application form as well as the verification-cum-attestation form and had committed fraud with the authorities, his case is squarely covered by Rules 12.4 and 12.21 of the Rules 2015 and the decisions of the Supreme Court rendered in *Devendra Kumar; Rajasthan Rajya Vidyut Prasaran Nigam Limited and another; State of Rajasthan and others Vs Chetan Jeff and Government of NCT of Delhi and others* (supra).

The appeal being meritless is, accordingly, dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

27.07.2022
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No