

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

LPA-46-2023 (O&M)

Date of Decision: 11.05.2023

Didar Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Harinder Pal Singh Ishar, Advocate,
for the appellant.

ARUN PALLI, J.

1) This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 31.10.2018, vide which the writ petition preferred by the appellant has been dismissed.

2) The facts that are required to be noticed are limited.

3) The appellant was selected for appointment to the post of Constable. And was enlisted, as such, in the 13th Battalion, PAP, in the year 2010. He was not allowed to join duty since an FIR No.60 dated 23.02.2009, under Sections 323/324/325/34 of the Indian Penal Code had been registered against him. However, subsequently, this Court, in CRM-M-22713-2011 (Bhupinder Singh and others Vs. State of Punjab and others), vide order dated 03.04.2012, quashed the said FIR, for the matter was compromised between the parties. Whereupon, vide letter dated 18.08.2012, he moved the authorities for issuance of letter of appointment. But to no avail. Upon filing of a writ petition (CWP-10691-2013) by the appellant, this Court, vide order dated 17.05.2013,

required the authorities to consider his concern/grievance. Accordingly, the Commandant, 13th Battalion, PAP, Chandigarh, examined the matter. But, vide order dated 05.08.2013, rejected his claim, for the appellant had intentionally concealed the pendency of a criminal case registered against him in his application form. It was in this backdrop, he again approached this Court vide a writ petition, which, as indicated above, stands dismissed.

4) Learned counsel for the appellant contends that many other persons, who were accused of much graver offences involving moral turpitude, but were eventually acquitted by the court, have been given appointments by the respondents. He submits that the candidates, who were identically placed as the appellant and had not disclosed about the registration of an FIR/pendency of a criminal case in their application forms, upon being acquitted, were offered appointments by the respondent authorities. In reference to the decision of the Supreme Court in **Avtar Singh Versus Union of India, (2016) 8 SCC 471**, it is urged the even in those cases where involvement in a criminal case is concealed, the employer has the discretion to condone the lapse.

5) We have heard learned counsel for the appellant and perused the record.

6) Concededly, FIR No.60, dated 23.02.3009 (*ibid*), was registered against the appellant. The appellant submitted the application form (bearing No.0006/AB) in March, 2010, and competed for selection to the post of Constable in Punjab Armed Police. As per column No.14 (application form) and the table appended thereto, every candidate was required to disclose if any criminal case was pending against him and to furnish the other requisite details, as had been asked for:-

“14. Whether any criminal case is pending against you? If yes, then give details:-

Srl. No.	Court Case/F.I.R No.	Dated	Name of the Court/ P. Station	Under Section And act	Present Status
	/	/	/	/	/

- 7) *Ex facie*, the appellant not only concealed the registration of an FIR and pendency of a criminal case against him, but also struck out all the columns in the table (*ibid*), which required him to mention the necessary details, with a clear intent to indicate that no criminal case was pending against him.
- 8) It would be equally crucial, at this stage, to even refer to the verification clause in the application form, which required the candidates to verify the contents of the information furnished by them:-

“Verification:

I, verify that all the above mentioned details given in this application form are true and correct to the best of my knowledge and belief. If any of the aforesaid information is found incorrect and wrong, before or after the test, then my candidature may be considered cancel and my all rights regarding recruitment may be forfeited. I also undertake that if the selection board finds me guilty of having been used illegal method in the tests taken during recruitment process or violated any rule and law then the recruitment board can cancel my candidature.

Sd/-

Didar Singh

Signatures of Candidate

Place:

Dated: ”

- 9) Concededly, the appellant verified his application form and declared that the information furnished by him was true and correct. He also

declared/undertook that, if any of the information furnished by him is found to be incorrect and wrong, before or after the test, his candidature be cancelled and his rights regarding recruitment be forfeited. Further, the authorities, while rejecting the claim of the appellant, had referred to Rule 12.14(1) of the Punjab Police Rules, 1934, which postulates that a recruit shall be of good character. And great care be taken in selecting the men of a type suitable for Police Service:-

“Recruit shall be of good character and great care shall be taken in selecting the men of a type suitable for Police Service from the candidates presenting themselves for enrolment.”

10) It would be expedient to point out here, that it was only on getting to know that department had issued letters to the concerned Senior Superintendent of Police and Intelligence Wing for verification of his character and antecedents, the appellant started making frantic efforts to get the matter compromised. Concededly, this Court was moved for quashing the FIR (*ibid*), based upon a compromise, only in the year 2011. Much after the submission of the application form in 2010.

11) The argument that authorities had offered appointment letters even to those who were identically placed, as the appellant, remained unsubstantiated. Similarly, the reliance placed on the decision in *Avtar Singh (supra)*, to contend that even in cases where a candidate has concealed his involvement in a criminal case, the employer has the discretion to condone the lapse, would not advance the case of the appellant either:-

“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.”

12) Apparently, there was a conscious and calculated attempt by the appellant to deceive the authorities to gain employment. Significantly, the verification form, which was duly signed by the appellant, itself attracted liability for suppression of material facts or submitting false information, including cancellation of candidature. Thus, in our opinion, the respondents were justified in rejecting candidature of the appellant. It would be apposite, at this juncture, to refer to the observations recorded by the Supreme Court in

Rajasthan Rajya Vidyut Prasaran Nigam Limited and another Versus Anil Kanwariya (2021) 10 SCC 136 :-

“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.”

13) A similar view has also been taken by the Supreme Court in Satish Chandra Yadav Versus Union of India & Ors., 2022(4) S.C.T. 266:-

“69. xx xx xx xx xx
a) xx xx xx xx xx
b) xx xx xx xx xx
c) *The suppression of material information and making a false statement in the verification Form relating to arrest, prosecution, conviction etc., has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.”*

14) Thus, in wake of the position sketched out above, the only and the inevitable conclusion that the authorities could reach was: the claim of the appellant deserved rejection. In the given situation, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal, being bereft of merit is, accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

11.05.2023
AK Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No