

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

(115)

LPA-3-2023

Decided on: 02.03.2023

Sandeep

....Appellant(s)

Versus

State of Haryana and others

.... Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Jasdev Singh Mehndiratta, Advocate for the appellant.

Mr. Ankur Mittal, Addl. AG, Haryana with
Mr. Saurabh Mago, AAG, Haryana
Mr. Karan Jindal, AAG, Haryana.

G.S. Sandhawalia, J.

The consideration in the present Letters Patent Appeal is to the judgment of the learned Single Judge passed in **CWP No.13005 of 2020** filed by the appellant which was dismissed on 29.10.2022.

2. The contention raised by the counsel for the appellant that the lack of knowledge of the FIR No.85 dated 29.03.2018 under Sections 323, 325, 452, 506, 34 IPC registered at Police Station Nangal Chaudhary, District Mahendergarh was repelled by noticing that there was other family members who were arrayed as accused and regarding the same incident FIR No.86 dated 30.03.2018 had been registered against the complainant of the earlier case by the writ petitioner. The MLR of the writ petitioner had been conducted and the statement under Section 161 Cr.P.C. was also recorded and as many as four notices had been sent to the writ

petitioner to join investigation. Therefore, lack of knowledge argument was rejected.

3. The verification form had been filled up on 03.03.2019 for the post of Constable much after the said FIR, thus, it was held that there was concealment and accordingly the order of discharge had been passed by the authorities. It was further held that there was nothing on record to establish that the writ petitioner was not residing with his parents and, therefore, had no knowledge of the said FIR. Merely because he had been declared innocent as such would also not help the writ petitioner, as the character of the candidate had to be seen to appoint persons of unimpeachable and impeccable character in disciplined force. It was held that even in case FIR No.545 dated 27.12.2012 under Sections 294, 506 IPC registered at Police Station City, Narnaul, it has been alleged against the writ petitioner that he had used abusive and obscene language against the complainant and he had been apprehended at the spot and handed over to the police and merely because the complainant and other material witnesses did not support the case of prosecution, he earned an acquittal.

4. Resultantly, the learned Single Judge had relied upon various relevant judgments of the Apex Court namely **Delhi Administration through its Chief Secretary and others Vs. Sushil Kumar, (1996) 11 SCC 605, Daya Shankar Yadav Vs. Union of India, (2010) 14 SCC 103, Devendra Kumar Vs. State of Uttaranchal, (2013) 9 SCC 363, Avtar Singh Vs. Union of India, 2016 (8) SCC 471, Union Territory Chandigarh Administration and others Vs. Pradeep Kumar and another, (2018) 1 SCC 797, Rajasthan Rajya Vidyut Prasaran Nigam**

Limited and another Vs. Anil Kanwariya, (2021) 10 SCC 136 and State of Rajasthan and others Vs. Chetan Jeff 2022 SCC Online SC 597.

5. Mr. Mehndiratta has vehemently tried to convince us to take a contrary view and trying to hold out that he was not in knowledge of the FIR and, therefore, once he had been acquitted by the Chief Judicial Magistrate, Narnaul in case FIR No.545 dated 27.12.2012 on the ground that once the complainant had not deposed against him and even the witnesses had not supported the case, the same should not be held against him. He has further submitted that similarly FIR No.85 dated 29.03.2018 which had been registered against the family members and most of the family members have been nominated and he was not aware of his involvement as he was not served any notice by the concerned police station and, therefore, there could be no presumption that he had due knowledge of the said FIR.

6. Thus, in the writ petition challenge was made to the order passed by the Commandant, 4th Battalion HAP, Madhuban, wherein the said officer was complying with the earlier order passed in CWP No.948 of 2020 wherein on account of his challenge to the discharge order dated 20.09.2019 (Annexure P-2) he had approached this Court. At the initial stage on account of averments that he was not aware of the involvement in FIR No.85 and on account of the fact that he had been declared innocent, the competent authority was directed to consider the case of the writ petitioner for reinstatement and an opportunity of hearing was to be afforded to him and in case he found eligible, a formal order of appointment would be issued.

7. The Commandant came to the conclusion that he had withheld the important information and four notices had been served upon him on 09.06.2018, 21.01.2019, 16.02.2019 and 17.03.2019. Three of these notices were received by brother of grandfather of the writ petitioner and one notice was received by Ex-Sarpanch Abhey Singh. Resultantly, while placing reliance upon the judgment passed in **Avtar Singh (supra)** and the judgment passed in **CWP No.499 of 2005 'Ramesh Kumar Vs. State of Haryana and others'** decided on 22.09.2005, wherein it was held that once a person had withheld important information clearly disentitled him for appointment, the reinstatement was, accordingly, denied by falling back on Rule 12.18 (4) of the Punjab Police Rules as amended that discharge was liable to be done from service, if a candidate has got appointment either by concealment of facts or by furnishing false or wrong information. It had also been noticed that there was disclosure regarding FIR No.545 dated 27.12.2012 and suppression regarding FIR No.85 in the attestation form filled up on 03.03.2019. Resultantly, while placing reliance upon **'Commissioner of Police, New Delhi and another Vs. Mehar Singh' (2013) 7 SCC 685**, it was held that a candidate wishing to join the police force must be a person of utmost rectitude and he should have impeccable character and integrity and the person having criminal antecedents would not entitle him for the police force. Therefore, he was discharged from service while placing reliance upon the said judgment.

8. The stand of the State was very clear that in spite of having knowledge of FIR No.85, he had concealed the said fact and secured the appointment by filling up the verification form on 03.03.2019. FIR No.86 dated 30.03.2018 which was a cross-case regarding the same incident had

also been registered, in which it had been mentioned that Sandeep the present appellant and one Sadhuran were injured in the fight in the incident which had taken place on 27.03.2018. It has further been mentioned that the MLR had also been conducted by Dr. Yogesh Kumar, Medical Officer. The statement recorded under Section 161 Cr.P.C. was also relied upon to repel the contention that he was not aware of the said case.

9. A perusal of the FIR No.85 dated 29.03.2018 (Annexure R-3) which was lodged by Rajesh, who was the neighbour would go on to show that apart from the writ petition his mother was also arrayed as an accused at Sr. No.5. Specially allegations were made that he alongwith one Sadhuran and Kanwar Singh had entered into the house of the applicant and had given blows to the applicant with iron rod and axe and tried to drag him from the house. The mother of the writ petition was also accused of beating the lady members of the other side. There were allegations that he had torn the clothes of sister-in-law of the complainant and outraged her modesty.

10. Apparently to bolster upon his own case he had got himself medically examined and MLR has also been placed on record as (Annexure R-4) and now it does not lie in the mouth of the counsel for the appellant to submit that merely a statement recorded under Section 161 Cr.P.C. which was not signed, certain benefits had to accrue to him. The purpose as such of filling up the verification form by the candidate is for declaring that he was not involved in any criminal proceedings and must disclose all the relevant facts. The appellant at the initial stage of service had concealed the factum of his involvement in FIR and only discloses the

factum of acquittal in FIR No.545 and has necessarily to face the brunt of concealment, as he did not disclose the facts of FIR No.85 while giving details of FIR No.545.

11. In **Daya Shankar Yadav (supra)** it was held that furnishing factual information which were wrong by a Constable for consideration for appointment would be a reason for not employing the declarant, once there is suppression or non-disclosure of material information which would have a bearing on his character. Resultantly, it was laid down that once a false statement had been made that he was not prosecuted in any criminal case, the employer was justified in dispensing with his services on the ground that he was not truthful in giving material information regarding the antecedents and, therefore, the discharge was held justified as he was seeking employment in a uniformed service.

12. In **Devender Kumar (supra)** it was held as under:-

“21. In [R. Radhakrishnan v. Director General of Police & Ors.](#), AIR 2008 SC 578, this Court held that furnishing wrong information by the candidate while seeking appointment makes him unsuitable for appointment and liable for removal/termination if he furnished wrong information when the said information is specifically sought by the appointing authority.

22. In the instant case, the High Court has placed reliance on the Govt. Order dated April 28, 1958 relating to verification of the character of a Government servant, upon first appointment, wherein the individual is required to furnish information about criminal antecedents of the new appointees and if the incumbent is found to have made a false statement in this regard, he is liable to be discharged forthwith without prejudice to any other action as may be considered necessary by the competent authority.

The purpose of seeking such information is not to find out the nature or gravity of the offence or the ultimate result of a criminal case, rather such information is sought with a view to judge the character and antecedents of the job seeker or suitability to continue in service. Withholding such material information or making false representation itself amounts to moral turpitude and is a separate and distinct matter altogether than what is involved in the criminal case.”

13. Reliance can be placed upon a three Judge Bench judgment passed in **Avtar Singh Vs. Union of India, 2016 (8) SCC 471**, wherein it was held that mere involvement in some petty kind of case would not render a person unsuitable for the job. However, it was open to the employer to form opinion as to fitness on the basis of material on record. While resolving the conflict of opinion of various Two Judge Benches of the Apex Court, the said conclusion was arrived at that in case of the uniformed personnel the declarant was under the bounden duty to furnish correct information. Any suppression of material facts or submitting false information would itself lead to termination of his services or cancellation of candidature in an appropriate case and non disclosure or submitting false information would make out a ground for the employer to cancel candidature or to terminate services, since the employment has been taken by holding out wrong facts. Accordingly, the question was answered.

14. In such circumstances, once the rules as such provide that the discharge as such has to be there, if there is any concealment, resultantly, we do not find any ground to interfere in the well reasoned order passed by the learned Single Judge. The same is based on precedent, which has now been followed in **SLP No.678 of 2021 ‘Imtiyaz Ahmad Malla Vs. The State of Jammu & Kashmir and others’** decided on 28.02.2023, wherein

involvement in a criminal case had been concealed and appointment order had been secured, which was unsuccessfully challenged before the High Court. Eventually, the Apex Court upheld the order of the High Court while placing reliance upon judgment passed in **Mehar Singh (supra)** by holding out that even if there was a true declaration of a concluded criminal case, the employer still has a right to consider the antecedents and cannot be compelled to appoint the candidate.

15. Accordingly, keeping in view the above, the present appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

02.03.2023
Naveen

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No