

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2688 of 2022

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Pankaj Kumar, Son of Dudhnath Prasad, Resident of Village - Agarsanda, P.O.
- Bahera, Police Station - Ara (Muffassil), District- Bhojpur, (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary of Ministry of Home Department, Patna, Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Director General of Police, Bihar, Patna.
4. The Deputy Inspector General (Personnel), Bihar, Patna.
5. The Chairman, Bihar Police Subordinate Service Commission, Bihar, Patna.
6. The Secretary, Bihar Police Subordinate Service Commission, Bihar, Patna.
7. The Officer on Special Duty, Bihar Police Subordinate Service Commission, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Senior Advocate Mr. Sunil Kumar Singh No.10, Advocate
For the State	:	Mr. Md. Nadim Seraj, GP 5
For the B.P.S.S.C.	:	Mr. Sanjay Pandey, Advocate Mr. Nishant Kr. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 16-07-2024

The petitioner had applied for the post of Steno, Police Sub-Inspector on 02nd May 2018, on the basis of advertisement no. 01/2018 issued by the Bihar Police Sub-ordinate Service Commission. On or about 22nd September 2018, a complaint was lodged against the petitioner and others in the Dhobahan outpost on the basis of which a criminal case being Case No. 311/2018 under Sections 341/223/379/324/504/506/34 of the IPC was registered. During the pendency of the case, the petitioner was



selected for service on the post of Steno Sub-Inspector of Police. Subsequently, he was asked to submit a verification form wherein, he was specifically asked as to whether:-

- (a) he was arrested in any case or not;
- (b) any case was instituted against him or not;
- (c) he was kept under police custody or not;
- (d) he was under the vigilance of police or not;
- (e) he was sentenced to pay fine or not;
- (f) he was convicted in a criminal case or not.

2. The petitioner filled up his verification form, giving a reply to the above-mentioned questions in negative. Subsequently, during verification by the police department, the authority came to know that a police case was lodged against the petitioner on 22nd September 2018 and the petitioner suppressed the said information and also gave wrong answer to the said question, in spite of his having knowledge about the pendency of the said case. So, the appointment letter was not issued in favor of the petitioner. The petitioner immediately approached this Court by filling **CWJC No. 1019 of 2021**. The said writ petition was disposed of by a Co-ordinate Bench *vide* an order dated 10th December 2021. The relevant portion of the said order is as follows:-

*“Petitioner’s grievance is only for
issuance of direction to the concerned*



respondent to issue order of appointment and accept duty report to the post of Steno Assistant Sub Inspector. In this regard he has cited the letter no. 1156/आयोग, dated 19.09.2019 (Annexure '6') issued by the Bihar Police Subordinate Service Commission followed by representation dated 30.09.2020.

The concerned respondent is hereby directed to consider the grievance of the petitioner and accept the duty report within a period of two weeks from the date of receipt of this order.

In the event of any hurdle in accepting duty report to the petitioner, necessary speaking order shall be passed as to why petitioner's duty report cannot be accepted. Such a speaking order shall be communicated to the petitioner within a period of two weeks and be communicated to the petitioner. (SIC)"

3. The authority duly considered the representation of the petitioner and his representation was rejected by the impugned order dated 14th January 2022. Paragraphs no. 04 to 08 of the said order are relevant and are quoted below:-

"4. चरित्र सत्यापन प्रपत्र प्राप्त होने के उपरान्त इनसे संबंधित अभिलेखों की जांचोपराना पाँया गया कि श्री कुमार द्वारा समर्पित हस्ताक्षरित पुलिरा सत्यापन प्रपत्र के कांक 1 में जिसमें अभ्यर्थी के विरुद्ध /दिवानी/फौजदारी एवं सिविल मामले में अभियुक्त रहने अथवा कभी कारावास



भुगतने का का विवरण अभ्यर्थी द्वारा ही भरा जाना या)
इनके द्वारा नहीं भरा गया है। परन्तु चरित्र सत्यापन रिपोर्ट
में इनके विरुद्ध उपरोक्त वर्णित गया। यामा काण्ड दर्ज
पाया।

5. इनके द्वारा धरित्र सत्यापन प्रपत्र में वस्तुस्थिति
को छुपाते हुए पुरी तरह गलत सूचना की गई है। जिसके
लिए यह प्रथम दृष्टया रूप में उत्तरदायी है। उक्त स्थिति में
इनकी नियुक्ति नहीं की गयी।

6. सामान्य प्रशासन विभाग बिहार सरकार के पत्रांक
6831 दिनांक 23.07.2020 द्वारा राज्याधीन
सेवाओं/संवर्गों में नियुक्ति हेतु संबंधित आयोग से
अनुशंसित अभ्यर्थियों के विरुद्ध आपराधिक कार्यवाही में
दोषसिद्ध होने/प्रक्रियाधीन रहने की स्थिति में नियुक्ति
करने हेतु दिशा निर्देश जारी किया गया है। उक्त निदेश के
कंडिका 4 के उप कंडिका 38.1 में उल्लेख है कि

*"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."*

7. बिहार पुलिस हस्तक 1978 के नियम 673 में
उल्लेख है कि—

*"... ..if the character of the man is reported
to be bad or his statement false, he be removed
shall from the fore."*

8. उपरोक्त वर्णित परिपेक्ष्य में आशु सहायक अवर
निरीक्षक के पद पर नियुक्ति हेतु श्री पंकज कुमार द्वारा किये



गये अनुरोध को पुलिस मुख्यालय के ज्ञापाक-79/पी०-5 दिनांक-25.05.2021 द्वारा Supression of facts के अंतर्गत अमान्य पाते हुए अस्वीकृत किया गया है एवं माननीय उच्च न्यायालय पटना में दायर याचिका संख्या - 1019/2021 में पारित न्यायादेश के आलोक में अपचारी द्वारा नये सिरे से अभ्यावेदन पुलिस मुख्यालय में समर्पित किये है, जिसमे कोई नया तथ्य प्रस्तुत नहीं किया गया है।"

4. It is contended by the learned senior counsel appearing on behalf of the petitioner that on the date of filing of the application, there was no criminal case pending against the petitioner. A criminal case was instituted on 22nd September 2018. Prior to that he was selected. After his selection, he was directed to fill the verification form. In the relevant column where he was asked to say as to whether any criminal case was pending against him or not, he replied in the negative. This is the only fault which has been committed by the petitioner. It is also submitted by the learned senior counsel appearing on behalf of the petitioner that the said criminal case has already been compromised and the petitioner has been acquitted on the basis of compromise. The said criminal case did not relate to any heinous offence or offence involving moral turpitude, therefore, the respondent authority ought to have held that it was a *bona fide* mistake on the part of the petitioner. For these reasons, a selected candidate in a Government Service should not be denied appointment on the



ground of suppression of material fact as regards the character of the said candidate.

5. In support of his contention, the learned senior counsel for the petitioner further refers to a judgment passed by a Co-ordinate Bench of this Court in **CWJC No. 10563 of 2020** decided on **06th August 2021**. The factual aspect is altogether the same in the aforesaid case cited by the learned senior counsel for the petitioner. While disposing of the said case, the Hon'ble Judge relied upon a decision of the Hon'ble Supreme Court in the case of ***Commissioner of Police and Ors, vs. Sandeep Kumar*** reported in **(2011) 4 SCC 744**. In ***Sandeep Kumar (supra)***, the Hon'ble Supreme was pleased to refer to the character of '*Jean Valjean*' in Victor Hugo's novel '*Les Miserables*', in which *Jean* was branded as a thief for committing a minor offence of stealing a loaf of bread for his hungry family.

6. The Hon'ble Supreme Court referred to the case of Welsh students mentioned by Lord Denning in his book 'Due Process of Law'. The incident can be summarized in the manner that some students of Welsh being very enthusiastic about the Welsh language came up to London and invaded the High Court and they were punished. It was held by Lord Denning that the ultimate reason for such invasion by the students of Welsh was to promote



Waleswith English which is more melodious by far “than our rough English tongue”. Therefore, the students/defendants were set free, and allowed to go to their parents with an advise to carry on their studies. What the Hon’ble Supreme Court wanted to impress by recording the above-mentioned story and the fact that the modern approach of the justice delivery system is to reform a person instead of branding him as a criminal all his life.

7. In ***Mohd. Imran v. State of Maharashtra***, reported in ***(2019) 17 SCC 696***, the Hon’ble Supreme Court in paragraph 5 observed as follow :-

“5. Employment opportunities are a scarce commodity in our country. Every advertisement invites a large number of aspirants for limited number of vacancies. But that may not suffice to invoke sympathy for grant of relief where the credentials of the candidate may raise serious questions regarding suitability, irrespective of eligibility. Undoubtedly, judicial service is very different from other services and the yardstick of suitability that may apply to other services, may not be the same for a judicial service. But there cannot be any mechanical or rhetorical incantation of moral turpitude, to deny appointment in judicial service simplicitor. Much will depend on the facts of a case. Every individual deserves an opportunity to improve, learn from the past and move ahead in life by self-improvement. To make past conduct, irrespective of all considerations, an albatross



around the neck of the candidate, may not always constitute justice. Much will, however depend on the fact situation of a case.”

8. **Mohd. Imran** (supra) is a judgment relating to none disclosure of certain facts by the candidate, selected in judicial service in the verification roll. This Court is not unmindful to note that the Police Service enjoins the responsibility of maintenance of law and order. The foundation of a criminal case depends upon the investigation by the police authority. We are accustomed to seeing that for negligent and careless investigation, how good criminal cases are destroyed, and real culprits are acquitted. Therefore, in the case of police service also, yardstick truthfulness, honesty, integrity, and disclosure of correct statements are also necessary.

9. Having said so, let us now consider the celebrated judgment of the Hon'ble Supreme Court in the case of **Avtar Singh v. Union of India**, reported in **(2016) 8 SCC 471**. In the instant case also, for furnishing wrong/incorrect information and suppression of material information, the service of the petitioner was terminated. In paragraph No. 38.4.1, the Hon'ble Supreme Court has held as under:-

“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.”

10. In paragraph no. 37 of the aforesaid judgment, it is observed by the Hon’ble Supreme Court:-

“37. The “McCarthyism” is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformatory theory cannot be ruled out in toto nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for cancelling candidature or discharging an employee from service.”

11. In a very recent decision, in the case of ***Civil Appeal No. 5902 of 2012 (Ravindra Kumar Vs. State of UP and Ors.)***, decided on ***22nd February 2024***, the Hon’ble Supreme Court after considering all the cases, on this subject was pleased to quash and set aside the order passed by the third respondent, Commandant 27th Battalion, PAC, Sitapur and the respondents are directed to appoint the appellant in service on the post of Constable for which he was selected.

12. Learned counsel for the respondents, on the other hand, submits that Rule 673 of the Bihar Police Manual deals with the mode and manner in which a verification roll is to be filled up. Rule 673 of the Bihar Police Manual says:-

“673. (a) Verification roll.- A verification roll shall be prepared in P.M. Form no. 101 and sent for verification to the home district of



every candidate, for the post of Sub-Inspector, Reserve Sub-Inspector and constable or any ministerial post.

(b) In the case of semi-literate men such as those recruited under relaxation of minimum educational qualification in rule 663 the questions on the roll shall be put to the candidate by the reserve officer, or an officer nominated for the purpose by the Superintendent, and that officer shall write down the answers, sign these with his full signature and produce these, together with the candidate, before the Superintendent. Literate persons shall fill in and sign the answers themselves. The Superintendent, if satisfied with the answers, will sign the roll, have the impression of the man's left thumb taken in the space provided and pass an order for his enlistment.

(c) Enlistment orders.- The order for enlistments shall then be entered in the order book, the service book shall be prepared and the verification roll despatched to the Superintendent of the district in which the recruits home is situated. The number and date of despatch shall be noted in the proper place in the service-book, and on the return of the roll with a report that the man bears a good character and has made a truthful statement as to his antecedents, the Superintendent shall initial this entry, have the necessary entry made in the service-book and order the verification roll to be filed. If the character of the man is reported to be bad or his statement false, he shall be removed from the force."



13. It is submitted by the learned Advocate for the respondents that in paragraph 38.1 of **Avtar Singh** (supra), it is stated that 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 the required information.

14. If the character of a candidate is reported to be bad or his statement is false, he shall be removed from the force. According to the learned Advocate for the respondents, the above-mentioned provisions are mandatory in nature. The police authority has no power to exercise its discretion in the matter when a candidate makes false statement in a verification roll with regard to his criminal antecedent.

15. Having heard, the learned counsels for the parties and on careful perusal of the entire materials on record as well as the precedence enunciated by the Hon'ble Supreme in the aforementioned decisions, this Court, at the outset, records that the offences for which the petitioner was booked were all compoundable in nature. The *de facto* complainant already compromised the case and the petitioner was acquitted on the ground of compromise of the charges. The said fact must be in the



record of the police authority while examining the verification roll. Undoubtedly, the petitioner was implicated in a criminal case but he was not implicated in a heinous crime involving moral turpitude which would, of course, render him unsuitable for the purpose of getting service. From the FIR, it is ascertained that the criminal case was a result of a village dispute between the informant on one side and the petitioner and others on the other. Such a village dispute is very common in our country. The concerned authority, i.e., the DIG of Police (Personnel), Bihar, Patna ought to have considered this aspect of the matter, but he did not. The employer has the duty to remember that reformation is the constitutional goal. It is the duty of every person discharging executive or constitutional function that for a fault of a trivial nature a man should not be made to suffer or turned to a seasoned criminal. The job of a constitutional Court is like that of the “Bishop’s Candlestick”. Chance of reformation has to be accorded to the young offenders in suitable cases, interplay of the reformatory theory cannot be ruled out in toto and nor can be generally applied but is one of the factors to be taken into consideration while exercising the power or canceling candidature or discharging an employee from service, failing which the administrative action would loss its way “into the dreary desert sand of dead habit”.



16. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the order of rejection of issuance of appointment letter dated 14.01.2022 passed by the DIG (Personnel), Bihar, Patna is quashed and set-aside.

17. Further, the petitioner’s wrong submission of information regarding a criminal case instituted against the petitioner be condoned and the petitioner be issued an appointment letter within 30 days from the date of communication of this order.

18. The instant writ petition is accordingly, disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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