

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

(232)

CWP-1433-2019

Date of Decision : April 18, 2024

Suresh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Amandeep Bidhan, Advocate, for the petitioner.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

1. Present writ petition has been filed challenging the order dated 29.10.2018 (Annexure P-7) by which, the appointment of the petitioner to the post of Patwari has been cancelled on the ground that the information qua the criminal case being faced by the petitioner, which information required to be submitted along with the application form was suppressed by the petitioner.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The petitioner competed for the post of Patwari as advertised vide Advertisement No.7/2015 dated 10.07.2015 (Annexure P-1) and was ultimately selected on the said post in September 2017. Thereafter, the petitioner was directed to fill up an attestation form in compliance of para 7

of the appointment letter with correct details wherein, the petitioner mentioned that he has not or is not facing any criminal proceedings. The petitioner joined and underwent the training at Patwar training school. Thereafter, the respondents came to know that on the date when the petitioner competed and was selected for the post in question, there was an FIR No.268 dated 15.11.2015 which was registered against the petitioner under Section 491 and 420 of the IPC was pending against the petitioner and ultimately, by the impugned order dated 29.10.2018 (Annexure P-7), the appointment order of the petitioner has been cancelled and the petitioner was relieved from service.

4. Learned counsel for the petitioner argues that the petitioner never suppressed any information though, he concedes the factum that at the time when the petitioner competed for the post, the FIR for violating Sections 491/420 of the IPC was pending against him. Learned counsel for the petitioner further argues that once, the petitioner has been acquitted of the said allegation though subsequent to the appointment, the acquittal means that the petitioner was not guilty of the allegations alleged in the FIR hence, the order dated 29.10.2018 (Annexure P-7) is liable to be set aside.

5. Learned counsel for the petitioner places reliance upon the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.1430 of 2007 titled as Commissioner of Police and others vs. Sandeep Kumar, decided on 17.03.2011***, in ***Civil Appeal No.7106 of 2011 titled as Ram Kumar vs. State of U.P. and others, decided on 19.08.2011*** and in ***Civil Appeal NO.5902 of 2012 titled as Ravindra Kumar vs. State of U.P. and others, decided on 22.02.2024***, to contend that even if the information was not disclosed at the time of competing for a post in question, the appointment given cannot be cancelled.

6. Learned counsel for the respondents, on the other hand, submits that once the information of the criminal case being faced by the petitioner at the relevant time has been withheld, it is clear that the petitioner was not truthful at the time of seeking appointment to the post in question and had mislead the authorities concerned to mean that there is no criminal case being faced by the petitioner at the time of seeking appointment. Learned counsel for the respondents places reliance upon the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.1155 of 2006 titled as Devendra Kumar vs. State of Uttaranchal and others, decided on 29.07.2013*** to say that any information qua the pendency of the criminal cases, if withheld, so as to adjudge the character and antecedents of the job seeker or suitability, the suppression of the information itself amount to moral turpitude and the employer has right to terminate the services of such employee.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. Learned counsel for the respondents has brought the application form of the petitioner in the Court today.

9. From the application form, it is clear that the petitioner has mentioned that he is not facing any criminal proceedings. That being the actual position qua the information supplied by the petitioner, it is clear that the petitioner has suppressed the actual facts qua the criminal case being faced by him and that too under Section 420 of the IPC.

10. The only question which needs to be adjudicated is whether the suppression of the information by a candidate, will give right to the Department to terminate the services of the said candidate or not. The judgments which are being relied upon by the learned counsel for the

petitioner cannot come to the rescue so as to seek the setting aside of the impugned order. In ***Ravindra Kumar's case (supra)***, the facts were different as the employee therein had already been acquitted of the criminal case at the time of seeking appointment, which was not disclosed keeping in view the performa available hence, as in the present case at the time of seeking appointment, the petitioner at the time of seeking the appointment was still facing the criminal case and that too alleged violation of Section 420 of the IPC, the judgment in ***Ravindra Kumar's case (supra)*** will not be applicable in the facts and circumstances of the present case.

11. With regard to the judgment of the Hon'ble Supreme Court of India in ***Sandeep Kumar's case (supra)***, the benefit was given to Sandeep Kumar on the ground that he was not facing serious offence like murder, dacoity or rape. In the present case, the petitioner was facing allegation of fraud which reflects upon the moral of an employee hence, was a serious offence therefore, the benefit given by the Hon'ble Supreme Court of India in ***Sandeep Kumar's case (supra)***, will not be available to the petitioner in the present case.

12. Though in the case of ***Ram Kumar's (supra)***, the benefit was given but in a subsequent judgment in ***Devendra Kumar's case (supra)***, where the Hon'ble Supreme Court of India has held that where the information sought was with a view to adjudge the character and antecedents of a job seeker and his suitability to continue and non-supply of the said information itself amounts to moral turpitude, in view of the subsequent judgment of the Hon'ble Supreme Court of India in ***Devendra Kumar's case (supra)***, no benefit of judgment in ***Ram Kumar's case (supra)*** can be given to the petitioner. Once the petitioner was facing the allegation of fraud, which is serious allegation and reflects upon the moral

of the employee, the judgment in *Devendra Kumar's case (supra)*, will be applicable so as to decline the benefit. The relevant paragraph of the said judgment is as under:-

*“ 10. 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.*

*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.”*

13. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

14. Dismissed.

**April 18, 2024**  
harsha

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

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