

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3327 of 2025

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Tuntun Kumar Yadav Son of Late Balmiki Yadav Resident of Lakrapatal,
P.O.- Amari, Lakrapatal, Munger, Amari, P.S.- Dharahara, District- Munger,
Bihar.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, Eastern Railway, Kolkata.
2. The General Manager (Personnel), Eastern Railway, Kolkata.
3. The Divisional Railway Manager, Eastern Railway, Malda.
4. The Chief Work Manager, Eastern Railway, Jamalpur.
5. The Chief Personnel Officer, Eastern Railway, Fairlie Place, Kolkata.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate Mr. Ansh Prasad, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG Mrs. Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

9 02-09-2025 After some arguments, learned counsel for the petitioner seeks permission to withdraw the present case, with a liberty to make a fresh application before the authority concerned in light of the judgment of the Hon'ble Supreme Court rendered in *Avtar Singh vs. Union of India*, reported in *(2016) 8 SCC 471* where the Hon'ble Supreme Court had made the following observation in Paragraph No. 30:

*“30. The employer is given
“discretion” to terminate or otherwise to condone
the omission. Even otherwise, once employer has*



the power to take a decision when at the time of filling verification form declarant has already been convicted/acquitted, in such a case, it becomes obvious that all the facts and attending circumstances, including impact of suppression or false information are taken into consideration while adjudging suitability of an incumbent for services in question. In case the employer comes to the conclusion that suppression is immaterial and even if facts would have been disclosed it would not have adversely affected fitness of an incumbent, for reasons to be recorded, it has power to condone the lapse. However, while doing so employer has to act prudently on due consideration of nature of post and duties to be rendered. For higher officials/higher posts, standard has to be very high and even slightest false information or suppression may by itself render a person unsuitable for the post. However, same standard cannot be applied to each and every post. In concluded criminal cases, it has to be seen what has been suppressed is material fact and would have rendered an incumbent unfit for appointment. An employer would be justified in not appointing or if appointed, to terminate services of such incumbent on due consideration of various aspects. Even if disclosure has been made truthfully, the employer has the right to consider fitness and while doing so effect of conviction and background facts of case, nature of offence, etc. have to be considered. Even if acquittal has been made, employer may consider nature of offence, whether acquittal is honourable or giving benefit of doubt on technical reasons and decline to appoint a person who is unfit or of dubious character. In case employer comes to conclusion that conviction or ground of acquittal in criminal case would not affect the fitness for employment, incumbent may be appointed or continued in service.”



2. Considering the submissions made by the learned counsel for the petitioner, he is permitted to withdraw the present application with a liberty to make a fresh application before the authority concerned.

3. In case a fresh application is made, the authority concerned will be at liberty to consider the same and pass an appropriate order, in accordance with law, taking into account the observations made by the Hon'ble Supreme Court in the case of *Avtar Singh (supra)*.

4. With the aforesaid liberty, the present writ petition stands disposed of as withdrawn.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

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