

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.382 of 2024

In
Civil Writ Jurisdiction Case No.11003 of 2022

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Babalu Kumar @ Babalu Bind Son of Lalan Prasad Resident of Village-
Kadirganj, P.O.- Bhadokhara, P.s.- Dariagaon, District- Rohtas, Pin-
821115.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary (now Additional Chief Secretary), Home Department, Government of Bihar, Patna.
2. The Director General of Police-cum- I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Tirhut Range (Now I.G. of Police, Tirhut Zone), Muzaffarpur.
4. The S.S.P., of Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mayanand Jha, Sr. Adv.
Mr. Arvind Kumar, Adv.

For the Respondent/s : Mr. P.K. Verma, AAG -3.
Mr. Sanjay Kumar Ghosarvey, AC to AAG -3

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 05-02-2025

1. Heard the learned counsel for the parties.
2. The appellant has challenged the judgment of

the learned Single Judge passed on 15.03.2024 in

CWJC No. 11003 of 2022 refusing to interfere with

the dismissal of the appellant for having furnished

wrong information in the character verification form



regarding his involvement in any criminal case.

3. The appellant was selected by the Central Selection Board in the year 2014 for the post of Constable, on which post, he joined on 01.08.2015. After about one and half months, the appellant was asked to fill-up a character verification form in which, amongst various other enquiries, it was asked of the appointees whether they had been made accused in any criminal or civil case or had gone to jail, to which the appellant had replied in negative. However, the aforementioned character verification form of the appellant was sent to his home district i.e. Rohtas, where it was discovered that he was, at the time of his selection, made an accused in Dariagaon P.S. Case No. 795/2011 dated 06.09.2011 under Sections 341, 379, 323 and 34 of the IPC.
4. Based on the aforementioned discovery of fact about the involvement of the appellant in a criminal case and his act of suppressing of the aforementioned fact, the Senior Superintendent of Police, Muzaffarpur



terminated his service without any show-cause notice to him.

5. The appellant claims to have been acquitted in the aforementioned case by the District & Sessions Judge, Rohtas in Criminal Appeal No. 36/2016.

6. After his acquittal, the appellant made a request to the SSP, Muzaffarpur to reinstate him in service but when the same was not allowed, he preferred a writ petition vide CWJC No. 21132 of 2018, which was allowed to the extent that he was reinstated in service and the department was directed to proceed against him departmentally.

7. A departmental proceeding thus was instituted against him in which he was found guilty of suppressing a vital fact and was again dismissed from service.

8. Against the aforementioned dismissal order, the appellant came before this Court vide CWJC No. 6636 of 2022 when he was asked to challenge the dismissal order before the Appellate Authority.



9. The appeal preferred by the appellant before the Appellate Authority / Inspector General of Police, Muzaffarpur Zone was also dismissed.
10. Both the orders were challenged before this Court vide CWJC No. 11003 of 2022, which too was dismissed, holding that there was no deficiency detected in the departmental proceeding and that a person employed in police service is required to be disciplined and not make any false statement about his antecedents.
11. Hence, this appeal.
12. The challenge is primarily based on the ground that the appellant misunderstood the question and had answered in the negative because he was never arrested. The question, however in the verification form was very clear as to whether he was ever involved in any civil or criminal litigation or he had gone to jail.
13. The contention of the appellant is that he is only semi-literate and did not understand the real import



of the question. The other ground raised on behalf of the appellant is that ultimately, he was acquitted in appeal and that the offences for which he was charged was not of any serious nature; rather the case arose out of a family feud and village politics.

14. The last of the contentions raised on behalf of the appellant was that neither the disciplinary authority nor the appellate authority or the learned Single Judge took into account the parameters to be applied while evaluating such suppression of a trivial nature, which would in no circumstance, be read as a deliberate attempt to hide true facts to secure appointment in police force.

15. The whole idea of verification of character and antecedent is to ascertain whether the person concerned is suitable for the post in question. It is one of the important criteria which is necessary to be fulfilled before appointment is made. An incumbent in a police service ought not to have criminal antecedents, in which case he may not be adjudged



as suitable for the post. The verification of antecedents is necessary to find out the fitness of the incumbent in all respects. The information provided by the candidate regarding his 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 statement.

16. Because of the cleavage of opinion regarding termination of the service of an employee on grounds of furnishing wrong/erroneous information regarding his antecedents, a Division Bench of the Supreme Court in ***Jainendra Singh v. State of U.P.;*** ***(2012) 8 SCC 748*** referred the matter to a larger Bench.

17. The larger Bench in ***Avtar Singh v. Union of India and Ors.;*** ***(2016) 8 SCC 471***, summarized the law in this regard as follows:

1. 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.

2. *While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.*

3. *The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.*

4. *In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted:*

5. *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.

6. *Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.*

7. *If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.*

8. *In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents,*



and cannot be compelled to appoint the candidate.

9. *In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case.*

10. *In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.*

11. *If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.*

12. *In case the employee is confirmed in*



service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

13. *For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.*

14. *Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.”*

18. A bare reading at the records reveal that the appellant was convicted by the Trial Court, but was let



go under the Probation of Offenders Act, 1958. The appeal was allowed on technical grounds of no witness having come forth in the witness box and the Doctor's report not being available on record. There is nothing on record also to indicate that the inquiry/question in the verification form was unintelligible or not capable of being understood by the applicant/employee.

19. The information about the implication of the appellant in the criminal case could be discovered only when the verification form was sent to his home district for confirmation.

20. Since an appeal was filed by the appellant against the conviction in the criminal case, the appellant cannot take the plea that he had no idea about his implication in the criminal case.

21. The employer, therefore, was justified in taking a call, especially with respect to a member of the police force, whose job and nature of duties is sensitive. The employer, therefore, in his wisdom,



thought that allowing the appellant to continue in service would not be conducive in any respect whatsoever.

22. The implication of the appellant in such a criminal case does not appear to be trivial by any yardstick. It is prudent to be left to the discretion of the employer whether to ignore such suppression of fact or false information furnished by the appellant by condoning such lapse.

23. The learned Single Judge was justified in holding that all procedural formalities were followed in putting the appellant to the rigors of departmental proceeding and the Court could not have sat on the wisdom and decision of the employer/disciplinary authority in not considering it as a *venial peccadillo*. After all, a member of the police force is required to be above suspicion and of absolute fair antecedent or else the faith in policing system would dwindle.

24. On a careful consideration of facts, we do not find it to be a fit case to interfere with the judgment



of the learned Single Judge.

25. The appeal stands dismissed.
26. Interlocutory application/s, if any, also stand disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
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