

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7853 of 2024

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Manoranjan Kumar son of Kailash Yadav, R/o Village- Konanad, P.S.-
Asthawan, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Director General of Police, Bihar, Patna.
3. D.I.G. of Police, Bihar Special Armed Police, Central Zone, Patna.
4. Commandant B.S.A.P.-2, Dehri, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Ram Hriday Pd, Maruti Kri, Advocates
For the Respondent/s	:	Mr Raisul Haque, SC X
		Mr Binay Kr, AC to SC X

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 05-03-2025

This petition has been preferred by the petitioner being aggrieved with the order dated 03.01.2022 (Annexure P/9) whereby and where under the petitioner has been dismissed from the service. The petitioner also challenges the order of DIG of Police, BSAP, Central Zone, Patna dated 26.06.2023 (Annexure P/11) by which the appeal of the petitioner has been rejected and further challenges the order of DGP of Bihar dated 08.04.2024 (Annexure P/15) whereby the Memorial of the petitioner has also been rejected.



2 Facts of the case are that pursuant to the Advertisement No 02 of 2009, the petitioner was selected and appointed on the post of Constable in Bihar Special Armed Police – 2, Dehri on 13.03.2020. Thereafter, he was sent for basic training at BSAP – 13, Darbhanga. Subsequently, at the time of character verification, it was found that against the petitioner Asthawan PS Case No 71 of 2009 dated 13.07.2009 for the offences punishable under Sections 341, 323, 337, 447, 307, 504/34 of the IPC and Section 27 of the Arms Act has been registered and subsequently charge sheet was submitted on 24.09.2009 which has been concealed by the petitioner. Accordingly, show cause notice was issued to the petitioner which he replied and, thereafter, charge memo was issued to the petitioner and on completion of enquiry, on the basis of enquiry report, vide imugned order dated 03.01.2022 (Annexure P/9), services of the petitioner have been dismissed which has been assailed by the petitioner through appeal and memorial which have also been rejected. Hence, this petition.

3 It is submitted by the learned counsel for the petitioner that at the time of filling of the form, there was no case registered against the petitioner. The FIR was lodged against the petitioner and his family members on 13.07.2009. Thereafter, they were



granted bail. After taking bail, the petitioner was neither given notice by the police nor by the concerned trial Court regarding pendency of the criminal case. So the petitioner was of the view that the case was closed. For this reason, he did not give the reference of the said case in column No 7 of the character verification roll. He further submits that after conclusion of full fledged trial, the petitioner has been acquitted from all the charges vide judgment dated 12.10.2023 (Annexure P/12) passed by the learned trial Court. He further submits that at the time of filling the form of character verification, petitioner was a young boy who was not aware of the consequences of the said and due to lack of knowledge and on his understanding that no case is pending against him, he did not disclose the registration of criminal case against him. Referring to the judgments passed by this Court in the case of *Ranvir Kumar -Versus- The State of Bihar & Others (CWJC No 20974 of 2014)*, *Sunil Kumar -Versus – The State of Bihar & Others (CWJC No 10563 of 2020)* and in the case of *Rakesh Kumar Singh -Versus- The State of Bihar & Others (CWJC No 15943 of 2023)*, it is submitted by the learned counsel for the petitioner that in the similar matter, the persons to the writ petitions therein were punished for lesser punishment and their order of dismissal has been set aside. Therefore, it is prayed by the



learned counsel that in the light of said, all the orders impugned be set aside.

4 Learned counsel for the Respondent-State opposes the argument raised by the learned counsel for the petitioner and submits that since the petitioner himself does not disclose the material fact regarding the criminal case registered against him, therefore, he has been rightly dismissed by the disciplinary authority.

5 I have heard learned counsel for the parties, perused the documents annexed with the petition.

6 Dealing with the issue, in the case of *Avtar Singh -Versus- Union of India & Others (2016) 8 Supreme Court Cases 471*, the Hon'ble Supreme Court observed and held in paragraphs 34, 35, 36 and 38.10 as under:

“34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects.

35. Suppression of “material” information presupposes that what is suppressed that “matters” not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed



the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.

36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.

38.10. 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.”

7 In the case of *Pawan Kumar -Versus- Union of India & Another (2023) 12 Supreme Court Cases 317*, it was observed by the Supreme Court at paragraph 13 as under:

“13. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact where there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from



service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into consideration, while taking appropriate decision regarding continuance/suitability of the employee into service. What has been noticed by this Court is that mere suppression of material/false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.”

8 In the case of *Ravindra Kumar -Versus- The State of Uttar Pradesh & Others (2024) 5 Supreme Court Cases 264*, it is observed by the Supreme Court at paragraph 34 as under:

“34. On the facts of the case and in the backdrop of the special circumstances set out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can be deemed fatal for the appellant. Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario.”

9 In the light of above observation made by the Supreme Court and on examination of the facts of this case, it is quite clear that at the time of filling the application form, there was no



criminal case registered against the petitioner. Subsequently, Asthawan PS Case No 71 of 2009 was registered against him and in the said case, he was granted bail by the competent Court. At the time of filling up of the verification form, this fact was not disclosed by the petitioner. At that time, as contended by the learned counsel for the petitioner, the petitioner was also not aware about the pendency of the said criminal case as he was under the impression that since he was granted bail years back, therefore, no case is pending against him and neither the concerned Police Station nor the concerned Court has informed him regarding the pendency of the criminal case.

10 Taking into consideration the cases referred by the learned counsel for the petitioner, it is also quite clear that in similar matters, this Court, in the case of ***Ranvir Kumar (supra)***, set aside the order of punishment of dismissal and directed the respondents to reconsider the case of the petitioner on quantum of punishment and pursuant to the said order, the punishment of dismissal has been reduced by the competent authority vide Annexure P/19 and further considering the other materials referred by the learned counsel for the petitioner which is annexed as Annexure P/17, it is also clear that in this matter also, the



punishment of dismissal has been quashed and direction was given to punish the petitioner therein for lesser punishment.

11 In the light of above and on the ground of equity also, the prayer made by the petitioner in this petition appears to be genuine.

12 Consequently, the impugned orders dated 03.01.2022, 26.06.2023 and 08.04.2024 are hereby set aside.

13 The respondents are directed to pass a fresh order of punishment after considering the observation made by the Supreme Court in the above mentioned cases as well as the matters, as referred by the learned counsel for the petitioner herein above, wherein the similarly situated persons have been given lesser punishment, and pass a reasoned order in accordance with rules and laws as early as possible preferably within four months from the date of receipt of a copy of this order.

14 Resultantly, this writ petition is allowed with the aforesaid observation.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2025
Transmission Date	NA

