

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18330 of 2022

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Monu Kumar Pandey Son of Late Harendra Pandey, Resident of Village-Simri Khairapatti, P.O. and P.S.- Simari, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Inspector General of Police (Welfare) Police Department, Government of Bihar, Patna.
3. The Deputy Inspector General of Police, Shahabad Range, Rohtas (Sasaram).
4. The Superintendent of Police, Buxar.
5. The Sargent Major, Police Line, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Maya Shankar Mishra, Advocate
For the Respondent/s	:	Md. Harun Quareshi, AC to SC- 1

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 01-12-2025

Heard learned Senior counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant application for a direction to the respondent authorities to appoint him on compassionate ground on the post of constable on the ground of the father of the petitioner, who was posted as Trained Assistant Sub-Inspector of Police (Training) in Police Line at Buxar, having died in harness on 16.1.2020.

3. The case of the petitioner in brief is that his father who was appointed as a constable in the Bihar Police in



the year 1979 was promoted as Assistant Sub-Inspector of Police. At the time of his death on 16.1.2020, he was working as Assistant Sub-Inspector of Police (Training) at Police Line in Buxar. On the death of his father, the petitioner applied for his appointment on compassionate ground and his case was recommended by the District Compassionate Committee headed by the Superintendent of Police, Buxar in its meeting held on 12.1.2021.

4. In the subsequent verification of his character, it transpired that the petitioner was an accused in an FIR being Simri P.S. Case no. 129 of 2014 registered on 16.7.2014 under sections 341, 323, 379 and other sections of the Indian Penal Code, section 3 of the SC and ST (Prevention of Atrocities) Act, 1989 and section 27 of the Arms Act, 1959. This fact with respect to his being an accused in the said case registered in the year 2014 was suppressed by the petitioner in his application for compassionate appointment. It further transpires that pursuant to the respondents coming to know about the case, the Superintendent of Police, Buxar wrote a letter dated 23.8.2024 to the Deputy Inspector General of Police, Shahabad Range, Dehri-on-Sone stating therein that as such, it would not be advisable to appoint the petitioner on compassionate ground.



5. It is submitted by learned Senior Counsel appearing for the petitioner that the petitioner not having been appointed inspite of the recommendation of the District Compassionate Committee and the Superintendent of Police having written the letter dated 23.8.2024 to the DIG, Shahabad Range recommending that the petitioner not be appointed on compassionate ground on account of having suppressed the fact of his being an accused in a criminal case has lead to the petitioner filing the instant application for a direction to the respondents to appoint him on compassionate ground.

6. Learned Senior counsel submitted that it is not in dispute that the FIR was registered in the year 2014. However, the accused persons therein including the petitioner herein having moved this Court in Cr. Misc. no. 18861 of 2017 for quashing the order taking cognizance, this Court by its order dated 24.11.2017 stayed further proceedings in connection with the said case. Subsequently, the order taking cognizance was quashed by order dated 24.8.2023 passed in Cr. Misc. no. 18861 of 2017.

7. In view of the aforesaid facts, learned Senior counsel appearing for the petitioner submits that even in case of such suppression with respect to pendency of criminal case



while being appointed in different services including the police service, the Hon'ble Supreme Court in different cases has held that the recruit is not to be discharged/terminated by stroke of pen. Instead, it is for the employer to consider all the relevant facts and circumstances including the relevant rules, the nature of the offence and mere suppression of material information does not mean that the employer can arbitrarily discharge/terminate the employee from service.

8. It is further submitted that though it is not a case of appointment pursuant to an advertisement, nevertheless, the instant case is also one of a fresh appointment on compassionate ground pursuant to the death of the employee in harness and as such, the appointment being on the post of a constable as a result of the family of the deceased employee having been left to fend for themselves, the respondents should have considered the case of the petitioner objectively. Reliance is placed on behalf of the petitioner on the judgments of the Hon'ble Supreme Court in the case of *Avtar Singh vs. Union of India and Ors.*; (2016) 8 SCC 471, *Pawan Kumar vs. Union of India and Anr.*; (2023) 12 SCC 317 and *Ravindra Kumar vs. State of U.P. and Ors.*; (2024) 5 SCC 264.

9. The application is opposed by learned counsel



for the respondents. It is submitted by learned counsel that the facts not in dispute are that in the application for compassionate appointment filed by the petitioner on the death of his father, to a categorical question as to whether the petitioner was an accused in any case, the petitioner answered in the negative, which statement on verification was found to be incorrect. The petitioner was an accused in an FIR lodged as far back as in the year 2014 and even on the date of filing of his application on compassionate ground, the case was still pending. There remaining no doubt with respect to the information with respect to his antecedents having been given by the petitioner to be incorrect, the Superintendent of Police by his letter dated 23.8.2024 rightly recommended that in the facts of the case, it was not advisable for the petitioner to be appointed and the petitioner has consequently not been appointed on compassionate ground. There is no error in the action of the respondents in not appointing the petitioner. There is no merit in the instant application and the same be dismissed.

10. Heard Mr. Rajendra Narain, learned Senior counsel, assisted by Mr. Maya Shankar Mishra, learned counsel, appearing for the petitioner and Md. Harun Quareshi, learned counsel appearing for the respondents.



11. The relevant facts in brief are that on the death of the father of the petitioner in harness in the year 1979, the petitioner filed an application for appointment on compassionate ground which came to be recommended by the District Compassionate Committee headed by the Superintendent of Police, Buxar on 12.1.2021.

12. The petitioner was an accused in an FIR registered under sections 341, 323, 379 of the Indian Penal Code, section 3 of the SC and ST (Prevention of Atrocities) Act, 1989 and section 27 of the Arms Act, 1959, however, the fact of the petitioner being an accused was suppressed by him. The suppression came to light in the character verification of the petitioner as a result of which the Superintendent of Police in his letter dated 23.8.2024 addressed to the DIG, Shahabad Range recommended that the petitioner not be appointed on compassionate ground. The petitioner was not appointed inspite of the recommendation of the District Compassionate Committee and which has lead to filing of the instant application.

13. How serious would be the consequences of suppression of such facts like pendency of a criminal case came to be considered by the Supreme Court in different cases.



14. In the case of **Avtar Singh** (supra), the Hon'ble Supreme Court held as follows:

“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. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

38.1. 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.

38.2. 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.

38.3. The employer shall take into consideration the Government Orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. 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:

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.

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

38.4.3. 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.



38.5. *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.*

38.6. *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.*

38.7. *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.*

38.8. *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.*

38.9. *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.

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.

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

15. In the case of **Pawan Kumar** (supra), the Hon’ble Supreme Court held as follows:

“11. This cannot be disputed that the candidate who intends to participate in the selection process is always required to furnish correct information relating to his character and antecedents in the



verification/attestation form before and after induction into service. It is also equally true that the person who has suppressed the material information or has made false declaration indeed has no unfettered right of seeking appointment or continuity in service, but at least has a right not to be dealt with arbitrarily and power has to be judiciously exercised by the competent authority in a reasonable manner with objectivity having due regard to the facts of the case on hand. It goes without saying that the yardstick/standard which has to be applied with regard to adjudging suitability of the incumbent always depends upon the nature of post, nature of duties, effect of suppression over suitability to be considered by the authority on due diligence of various aspects but no hard-and-fast rule of thumb can be laid down in this regard.

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 whether 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.

20. Consequently, the appeal succeeds and is allowed. The judgment of the Division Bench of the High Court dated 17-11-2015 and the order of discharge dated 24-4-2015 and dated 23-12-2021 are hereby quashed and set aside. The respondents are directed to reinstate the appellant in service on the post of Constable on which he was selected pursuant to his participation in reference to Employment Notice No. 1/2011 dated 27-2-2011. We make it clear that the appellant will not be entitled for the arrears of salary for the period during which he has not served the force and at the same time he will be entitled for all notional benefits, including pay, seniority and other consequential benefits, etc. Necessary orders



shall be passed within a period of one month from today. No costs.”

16. Taking the above-mentioned as also other judgments into consideration, the Hon’ble Supreme Court in the case of **Ravindra Kumar** (supra) held as follows:

“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.”

17. Coming to the facts of the instant case, though it is not in dispute that the FIR wherein the petitioner was made an accused was registered in the year 2014, however, the case



was such that on the order taking cognizance being challenged in this Court by order dated 24.11.2017 passed in Cr. Misc. no. 18861 of 2017, this Court had been pleased to stay further proceedings in connection with the said case. It was after the stay of the criminal case that the father of the petitioner died on 16.1.2020 leaving behind the petitioner, his two brothers and his mother in financial problem. So far as the criminal case is concerned, subsequently by order dated 24.8.2023 passed by this Court in Cr. Misc. no. 18861 of 2017, the same was quashed.

18. Taking into consideration the facts and circumstances stated herein above, though the statement with respect to pendency of the criminal case made by the petitioner in the application cannot be said to be correct, however, in view of the circumstances of the case wherein the father of the petitioner had died in harness, the family of four was in dire need of an employment together with an order of stay of the criminal proceedings having been passed in the year 2017 itself and subsequently the criminal case came to be quashed, in the facts of the case relating to appointment on the post of Constable, it cannot be said that the incorrect statement made by the petitioner warranted the respondents not appointing him on



compassionate ground.

19. For the reasons stated herein above and taking into consideration the judgments of the Hon’ble Supreme Court, in the opinion of the Court, the opinion of the Superintendent of Police, Buxar recommending that the petitioner not be appointed on compassionate ground is not sustainable and is set aside.

20. In view of the recommendation of the District Compassionate Committee headed by the Superintendent of Police, Buxar in its meeting on 12.1.2021 recommending the appointment of the petitioner on compassionate ground, the respondents are directed to appoint the petitioner on compassionate ground at the earliest, preferably within a period of two months from the date of communication of this order.

21. The writ application stands allowed.

(Partha Sarthy, J)

saurovkrishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.12.2025
Transmission Date	NA

