

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 18844 of 2024

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Rahul Kumar Son of Sri Rajaram Rajak, Resident of village Patoi, Sihuli Khaira, P.S. Rafiganj, District Aurangabad PIN- 824125.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home (Police) Department, Govt. of Bihar, Patna.
2. The Director General cum Inspector General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Begusarai Range, Begusarai.
4. The Superintendent of Police, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Mayanand Jha, Sr Advocate with Mr Arvind Kumar, Advocate
For the Respondent/s	:	Mr Madanjeet Kumar, GP XX

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 24-04-2025

This petition has been preferred by the petitioner seeking following reliefs:

“I For setting aside the order contained in Memo No 4208 dated 13.08.2024 (Annexure P/9) passed by the Superintendent of Police, Begusarai whereby the petitioner has been dismissed from service as a Driver Constable.

II For setting aside the appellate order as contained in Memo No 254 dated 30.09.2024 (Annexure P/11), passed by the DIG, Begusarai Range, Begusarai whereby he rejected the Appeal of the petitioner preferred against the dismissal order.



III For issuance of an order/direction to reinstate the petitioner in service from the date of dismissal from service with all consequential benefits and

IV For grant of any other relief to which the petitioner may be deemed fit to be entitled.”

2 Brief facts of the case are that in the light of Advertisement No 5 of 2019, the petitioner applied for the post of Driver Constable. The written test was held on 14.10.2020 and PET on 17.11.2021. Finally, he was selected and appointed as Driver Constable in Bihar Police and joined his duty on 17.09.2022. After filling up the examination form for selection of Constable, a false and frivolous case being Rafiganj PS Case No 111 of 2020 dated 27.05.2020 for the alleged offence punishable under Sections 147, 148, 149, 341, 323, 324, 504 of IPC has been registered in which the name of the petitioner was also mentioned as accused. Counter case was also lodged by the uncle of the petitioner against the informant. After selection, the petitioner filled up character verification form in which at serial No 7, he mentioned “No”. The said character verification form was sent to the home district of the petitioner for verification. It was reported that the petitioner was an accused in Rafiganj PS Case No 111 of 2020 but his character is good and his name is not mentioned in part II of the CD. Thereafter, a show cause was issued to the



petitioner on 17.03.2023. The petitioner responded to the show cause dated 17.03.2023 mentioning that a mistake was done due to lack of knowledge and understanding of the departmental rules. Meanwhile, on 27.07.2023, the petitioner was acquitted in the said criminal case by the learned trial Court vide Annexure P/2. The petitioner, thereafter, filed an application for sympathetic consideration of his response to the show cause dated 17.03.2023 in view of the fact that he has been acquitted. However, departmental enquiry was initiated against the petitioner. The Enquiry Officer, in his enquiry report (Annexure 6) held that the petitioner does not appear to be guilty. Thereafter, the SP again issued the show cause differing with the enquiry report and subsequently, the Disciplinary Authority passed the order of dismissal of the petitioner vide Annexure P/9. An appeal was filed by the petitioner which has also been rejected by the appellate authority vide Annexure P/10. Hence, this petition.

3 Learned counsel for the petitioner would submit that petitioner belongs to the SC community and at the time of filling up the character verification form, he was a young boy aged about 23-24 years. He further submits that the petitioner did not furnish wrong information deliberately and subsequently, he was acquitted by the trial Court which has not been considered by the



Disciplinary Authority. Reliance has been placed on the cases of *Avtar Singh -Versus- Union of India & Others, (2016) 8 SCC 471, Pawan Kumar -Versus- Union of India & Another, (2023) 12 SCC 317* and *Ravindra Kumar -Versus- State of Uttar Pradesh & Others, (2024) 5 SCC 264*.

4 Learned counsel for the respondent-State opposes the argument raised by the learned counsel for the petitioner and submitted that at the time of filling the character verification form, the petitioner himself did not disclose that a criminal case is pending against him. Therefore, the Disciplinary Authority, invoking his power, rightly passed the order of dismissal of the petitioner.

5 I have heard learned counsel for both the parties. Perused the documents annexed with the writ petition as well as the counter affidavit.

6 Dealing with the issue in the case of Avtar Singh (supra), the Supreme Court observed and held at paragraphs 34, 35, 36, 38.10 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.

38.10. 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 (supra)*, again it was observed by the Supreme Court in 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 (supra)*, the Supreme

Court observed ad held at paragraph 34 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.”



9 In the light of the above observations made by the Supreme Court, on examination of the facts of this case, it is quite clear that at the time of filling up of character verification form, the petitioner declared that no FIR or criminal case has ever been registered against him though Rafiganj PS Case No 111 of 2020 has already been registered against him. However, at the time of filling up the character verification form, the fact was known to the petitioner and he himself in his response to show cause dated 17.03.2023 mentioned the fact that though a mistake was done by him but it was due to lack of knowledge and understanding the departmental rules. At this juncture, it would be appropriate to mention that at that time, the petitioner was a young boy aged about 23-24 years and he also belongs to SC community. Further, in his report dated 12.10.2022, the Reporting Officer himself mentioned that the character of the petitioner is good and his name is not mentioned in Part II of the CD. Subsequently, vide order dated 27.07.2023, the petitioner has been acquitted for all the charges levelled against him. On perusal of the enquiry report, it also transpires that the Enquiry Officer drew his opinion that the petitioner appears to be innocent. However, the Disciplinary Authority, while passing the impugned order of dismissal, did not consider all these aspects.



10 Considering the facts, as discussed above and further considering the law laid down by the Supreme Court in the cases of *Avtar Singh (supra)*, *Ravindra Kumar (supra)* and *Pawan Kumar (supra)*, I find that the mistake committed by the petitioner regarding non-disclosure of criminal case against him is not fatal. Therefor, the impugned order dated 13.08.2024 (Annexure 9) and the appellate order dated 30.09.2024 (Annexure P/11) are hereby quashed and set aside.

11 The respondents are directed to reinstate the petitioner forthwith with all applicable consequential benefits.

12 Accordingly, the petition is allowed.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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