



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-3818-2025

Date of Decision: 06.03.2025

Anup Kumar and another

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.S. Dhull, Advocate (appearing through video conferencing)
and Mr. Navnit Sharma, Advocate,
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Articles 226 and 227 of the Constitution of India are seeking direction to respondent to issue them appointment letter.
2. The petitioners, pursuant to advertisement No.6/2024 dated 28.06.2024, applied for the post of Constable. They participated in the Common Eligibility Test as well as final test. They came to be selected. The respondent conducted verification of their credentials and found that FIR(s) were pending against them at the time of filing application forms. Thus, their candidature came to be rejected.
3. Ms. Rajni Gupta, Addl. A.G., Haryana, during the course of hearing, produced application forms of both the petitioners. There is specific column in the application forms with respect to FIR. The petitioners did not disclose particulars of FIR pending against them. They specifically mentioned



that no FIR is pending against them.

4. The selection process completed in 2024 and petitioners came to be acquitted after completion of selection process. As petitioners did not disclose particulars of pending FIR in the application forms and specifically mentioned that no criminal case is pending against them, they are not entitled to benefit of findings of a three-Judge Bench judgment of Hon'ble Supreme Court in ***Avtar Singh vs. Union of India, (2016) 8 SCC 471***. The Court after noticing plethora of judgments has culled out legal position as below:

“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 recourse 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.”



5. Rather, their case is squarely covered by a two Judge Bench of Supreme Court in ***Satish Chandra Yadav v. Union of India and others., 2023 (7) SCC 536***. The Court has adverted to question of appointment of a candidate against whom criminal case is pending/or was instituted. The Court has laid down guidelines as below:

“93. In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:

93.1. Each case should be scrutinised thoroughly by the public employer concerned, through its designated officials — more so, in the case of recruitment for the Police Force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security. (See Raj Kumar [State v. Raj Kumar, (2021) 8 SCC 347]).

93.2. Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for appointment to the post.

93.3. The suppression of material information and making a false statement in the verification form relating to arrest, prosecution, conviction, etc. has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from



service.

93.4. The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided.

93.5. The Court should inquire whether the authority concerned whose action is being challenged acted mala fide.

93.6. Is there any element of bias in the decision of the authority?

93.7. Whether the procedure of inquiry adopted by the authority concerned was fair and reasonable?"

6. In the case in hand, the petitioners concededly did not disclose their criminal antecedents in the application form. The Apex Court in **Avtar Singh (supra)** in Paragraph No.38.5 has held that where an 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. In Paragraph No.38.7, it has been held that in case of deliberate suppression of fact, an employer may pass appropriate order cancelling candidature or terminating services. A similar observation has been made by Supreme Court in **Satish Chandra Yadav (supra)**. Case of the petitioners is squarely covered by aforesaid judgments. Had the petitioners disclosed their antecedents, this Court could consider nature of criminal cases or their status, however, the petitioners as per their wisdom had decided not to disclose their antecedents. The act of the petitioners falls within negative observations made in afore-cited judgments.

7. In the wake of above discussion & findings and following the judgments of Apex Court in **Avtar Singh (supra)** and **Satish Chandra Yadav (supra)**, this Court is of the considered opinion that present petition being bereft



of merit deserves to be dismissed and accordingly dismissed.

06.03.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes