

2025:PHHC:069116



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

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**CWP-15368-2020
Date of Decision: 20.05.2025**

BALDEV RAJ

... Petitioner

VERSUS

UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Sarju Puri, Advocate for the petitioner.

Mr. Rakesh Verma, Sr. Panel Counsel
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been instituted assailing the order dated 16.04.2015 (Annexure P-1), passed by respondent No.3, the Deputy Inspector General, Central Industrial Security Force, Regional Training Centre, Barwaha, Post Office Dariya Mahal, District Khargone, Madhya Pradesh, whereby the services of the petitioner were terminated during the period of probation. The petitioner further impugns the order dated 20.09.2019 (Annexure P-2), passed by respondent No.4, the Assistant Inspector General (Law and Order), whereby the representation/appeal preferred by the petitioner challenging the termination order has been dismissed.

A further prayer is made for issuance of a writ in the nature of mandamus directing the respondents to reinstate the petitioner in service with continuity and to confer upon him all consequential service benefits.

Learned counsel appearing for the petitioner submits that the petitioner was selected for the post of Constable (General Duty) bearing CISF Roll No. 140806762-CT/GD (UT) during the recruitment process conducted by the Central Industrial Security Force (CISF) through the Staff Selection Commission (SSC) for the year 2011–12. Pursuant to his selection, he was issued an offer of appointment by the Senior Commandant, 5th Reserve Battalion, Ghaziabad, Uttar Pradesh, vide letter dated 15.04.2014. The petitioner had successfully participated in the physical test/trials held in April 2011, followed by the written examination conducted in 2012.

It is submitted that though the petitioner could not appear for the medical examination scheduled in September 2012 due to an episode of fever, he was subsequently declared fit in a follow-up medical examination conducted in March 2013. Thereafter, the offer of appointment was duly extended to him. The petitioner formally reported for training at CISF Regional Training Centre, Barwaha, Madhya Pradesh, on 27.09.2014. It is stated that the petitioner's appointment was governed by the terms set out in the Agreement Form executed by him, which provided, inter alia, for a probationary period of two years.

It is, however, undisputed that during the course of the recruitment process, the petitioner was implicated in FIR No. 82 dated 13.08.2012 registered at Police Station Balachaur, District SBS Nagar under Sections 341, 323, 506, 148 and 149 of the Indian Penal Code, based on a complaint lodged by one Vijay Kumar. It is pointed out that a co-accused, Gurdev Singh, made a representation dated 16.08.2012 to the Senior Superintendent of Police, SBS Nagar, pursuant to which an inquiry was entrusted to the Deputy Superintendent of Police, Sub-Division Balachaur. Upon conclusion of the inquiry, the petitioner and four

others were found to be innocent, and it was recommended that proceedings against them be dropped. Consequently, the petitioner's name was placed in Column No. 2 of the final police report submitted on 02.01.2013.

Nevertheless, the petitioner was later summoned as an additional accused under Section 319 of the Code of Criminal Procedure vide order dated 08.10.2013, and charges were framed against him on 09.04.2014. It is submitted that when the verification of particulars furnished by the petitioner in the Agreement Form (Appendix "A") under Rule 21 of the CISF Rules, 2001 was conducted, it was discovered that the petitioner had failed to disclose his involvement in the said criminal case. Notwithstanding his summons and framing of charges in April 2014, he did not make a true disclosure when he reported for duty in September 2014. It is on this ground of material concealment that the impugned order of termination came to be passed by the respondent-authority.

Learned counsel for the petitioner submits that the petitioner, aggrieved by the order of termination, preferred an appeal before the Appellate Authority, which was dismissed vide order dated 20.09.2019.

In support of the challenge to the termination, the learned counsel advances the following contentions:

Firstly, it is urged that at the time of submission of the initial application form, there existed no FIR against the petitioner, and as such, there was no occasion or necessity for any disclosure at that stage. Although the FIR in question was registered subsequently in August 2012, the petitioner was found innocent by the police during inquiry and his name was reflected in Column No. 2 of the final report. It was only upon an order passed under Section 319 of the Cr.P.C. that the petitioner was summoned as an accused. Eventually, after facing

trial, the petitioner was released on probation. It is, therefore, argued that the said release under Section 4 of the Probation of Offenders Act, 1961 would not amount to a disqualification and cannot form the basis for punitive action, such as termination from service.

Secondly, it is contended that the disciplinary as well as appellate orders suffer from inconsistency in reasoning. While the Deputy Inspector General, CISF RTC, terminated the services of the petitioner citing his unsuitability for permanent employment in the CISF, the Appellate Authority dismissed the appeal on the distinct ground of suppression of material facts relating to the criminal case. It is argued that such inconsistency between the reasons assigned by the disciplinary and appellate authorities is impermissible and vitiates the decision-making process.

Thirdly, the learned counsel points out an inherent procedural infirmity. It is contended that as per Rule 25 of the CISF Rules, 2001, the Commandant is designated as the appointing authority for the petitioner's cadre. However, the order of termination has been passed by the Deputy Inspector General, who is admittedly a higher authority but not the competent authority as defined under the relevant rules. Further, it is submitted that the appeal from such an order should ordinarily lie to a higher authority; yet, in the present case, the appeal has been adjudicated and dismissed by the Assistant Inspector General (Law and Order), who is a lower-ranking official than the Deputy Inspector General. This, it is urged, results in a violation of the principles of natural justice and renders the appellate order unsustainable.

Lastly, the learned counsel places reliance on two judgments of this Court, firstly on the judgment dated 28.04.2016 passed in *CWP No. 11438 of*

2014 titled as *Hari Om Vs. Union of India & Others*, and secondly judgment dated 14.12.2018 rendered in *CWP No. 3573 of 2003* titled as *Sanjeev Sharma v. Union of India & Ors.* It is contended, relying on these decisions, that mere suppression or non-disclosure of an FIR—especially when the candidate is ultimately granted the benefit of probation—ought not to be viewed as a willful concealment attracting the extreme penalty of termination.

Per contra, learned counsel for the respondents has submitted that there is no dispute raised by the petitioner with regard to his involvement in a criminal case. It is urged that even if the submission of the learned counsel for the petitioner is taken at face value—that at the time of filing the initial application form in the year 2011, no FIR was registered against the petitioner, yet, such defence becomes immaterial in light of the events that transpired subsequently. The respondents assert that, at the time of submission of the agreement form dated 27.09.2014, the petitioner was not only aware of the pendency of the FIR but also was, in fact, facing trial.

It is submitted that the FIR bearing No. 82 dated 13.08.2012 had already been registered against the petitioner. Even though the petitioner was placed in Column No. 2 of the final report submitted by the police, the fact remains that he was summoned by the learned trial Court as an additional accused under Section 319 of the Code of Criminal Procedure and the charges had been framed against him as early as April 2014—several months prior to the submission of the agreement form. Hence, it is urged that the petitioner was under a clear obligation to disclose such material facts, but willfully chose to suppress the same.

The learned State counsel further contends that the invocation of the Probation of Offenders Act, 1961 by the petitioner is misplaced. While it may be correct in law that a release on probation under Sections 4 or 5 of the said Act may not amount to a disqualification in certain circumstances, the case at hand pertains not to disqualification per se but to the deliberate concealment of material facts at the time of consideration for appointment in a disciplined force. The suppression of information, it is argued, strikes at the root of the employer's trust in the employee and, therefore, justifies the action of termination.

To fortify the said submission, reliance is placed upon the judgment of the Hon'ble Supreme Court rendered in *Satish Chander Yadav vs. Union of India*, Civil Appeal No. 6955 of 2022, decided on 26.09.2022. In the said judgment, the Apex Court upheld the dismissal of a candidate on the ground of suppression of information relating to a criminal case, observing that honesty and integrity are foundational requirements in uniformed services and that non-disclosure of material facts undermines institutional discipline and credibility. The operative part thereof reads thus: -

“79. Ms. Madhavi Divan, the learned ASG has rightly relied on Kendriya Vidyalaya Sangathan (supra) in which this Court held that the purpose of requiring an employee to furnish information regarding prosecution/conviction, etc. in the verification Form was to assess his character and antecedents for the purpose of employment and continuation in service; that suppression of material information and making a false statement in reply to the queries relating to prosecution and conviction had a clear bearing on the character, conduct and antecedents of the employee; and that where it is found that the employee had suppressed or given false information in regard to the matters which had a bearing on his

fitness or suitability to the post, he could be terminated from service during the period of probation without holding any inquiry. This Court also made it clear that neither the gravity of the criminal offence nor the ultimate acquittal therein was relevant when considering whether a probationer who suppresses a material fact (of his being involved in a criminal case, in the personal information furnished to the employer), is fit to be continued as a probationer.

80. We find that the observations in the aforesaid case are fully applicable to the appeal filed by Satish Chandra Yadav. We are of the opinion that it was a deliberate attempt on the part of the appellant Satish Chandra Yadav to withhold the relevant information and it is this omission which has led to the termination of his service during the probation period.”

He thus contends that the reliance placed by the petitioner on the judgments rendered by the learned Single Judge of this Court is wholly misconceived, inasmuch as the same cannot override or dilute the binding precedent laid down by the Hon’ble Supreme Court. It is submitted that the Apex Court, in its authoritative pronouncement, has comprehensively examined the entire spectrum of precedents on the issue and has unequivocally held that suppression of material information—especially in relation to criminal antecedents—constitutes a grave lapse.

The respondents contend that such suppression is not a mere technical or procedural default but goes to the root of the matter, as it directly reflects upon the integrity, transparency, and moral character of a candidate seeking entry into a disciplined force. It is urged that security forces, by their very nature, demand the highest standard of honesty and probity from their personnel, and any concealment or misrepresentation, particularly in the context of pending criminal cases, must be viewed with zero tolerance.

Accordingly, the respondents submit that the impugned orders of termination and rejection of the appeal are lawful, justified, and in conformity with the settled principles of service jurisprudence and constitutional discipline.

I have heard the learned counsel for the respective parties and having considered the submissions advanced by learned counsel for the parties and upon a specific query being put to learned counsel for the respondents, it is not disputed that the order dated 20.09.2019, whereby the petitioner's appeal was dismissed, has been passed by an authority subordinate to the disciplinary authority who had imposed the punishment of termination. Such a course of action is impermissible in law.

This Court finds merit in the contention raised by learned counsel for the petitioner that as per the Central Industrial Security Force Rules, 2001, the Appellate Authority must be an officer senior to or higher in rank than the disciplinary authority. Any appellate order passed in breach of this requirement stands vitiated in the eyes of law.

In light of the above, the impugned order dated 20.09.2019 (Annexure P-2), passed by respondent No.4 - the Assistant Inspector General (Law and Order), Directorate General, CISF, is hereby quashed and set aside and the present writ petition is hereby allowed. Consequently, the matter is remanded to the appropriate Appellate Authority to be an officer superior to the Deputy Inspector General, CISF for re-consideration of the petitioner's appeal and for passing a reasoned and speaking order in accordance with law, taking into account all relevant facts and circumstances.

This Court has consciously abstained from expressing any opinion on the merits of the case lest it causes any prejudice to the respective rights and contentions of the parties.

Let the parties appear before the Appellate Authority on **21.07.2025**, whereupon the Appellate Authority shall proceed to reconsider the matter and pass a reasoned and speaking order afresh, strictly in accordance with law, within a period of **four months** from the said date.

It is further clarified that all issues and objections of the parties are left open, and they shall be at liberty to raise all pleas and grounds available to them before the Appellate Authority.

Needless to mention that in case the petitioner succeeds in the said appeal, he shall be given appointment by respondent-Authorities without any undue delay.

MAY 20, 2025.

Rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No