



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

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LPA-1274-2023

Date of Decision:-11.09.2025

SANJEET MALIK

.....APPELLANT

VS.

CANARA BANK AND ORS

.....RESPONDENTS

**CORAM:- HON'BLE MR. ASHWANI KUMAR MISHRA
HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present:- Mr. Sunil K. Nehra, Advocate
for the appellant.

Ms. Rahish Pahwa, Advocate with
Mr. Saksham Dudeja, Advocate
for the respondents.

ASHWANI KUMAR MISHRA, J.(ORAL)

1. This letters patent appeal arises out of judgment dated 01.08.2023, passed by the learned Single Judge in CWP No.15969 of 2023, whereby challenge laid to the order of termination passed against the appellant/petitioner on 11.06.2020, and 18.07.2022 has been rejected.

2. It transpires that the appellant applied for the post of Probationary Officer in a Bank. On the basis of All India competition, he was selected on 04.06.2018. He was allowed to join and had worked for nearly one and half years, when a notice was served upon him on 15.11.2019, pointing out that an FIR No.904 dated 14.11.2015 was registered against him, pursuant to which he was arrested on 16.11.2015, and was released on bail the very next day i.e. 17.11.2015. The investigation ultimately concluded with submission of chargesheet in the matter. However, the trial Court vide order dated 06.05.2022, discharged the petitioner, finding



no evidence to exist against him in respect of the offence, while taking cognizance against other accused. The respondent-Bank, pursuant to the notice issued to the appellant on 15.11.2019, ultimately terminated the services of appellant on the ground that he had suppressed his arrest and his implication in FIR No.904 dated 14.11.2015. This order has been affirmed with the dismissal of appeal itself. Aggrieved thereby, the appellant approached this Court, where his claim was also rejected. Accordingly, the petitioner/appellant has preferred the present appeal before this Court.

3. Before we advert to the arguments advanced on behalf of the appellant, it would be appropriate to note that in the FIR No.904 dated 14.11.2015, the appellant was not implicated or named. He was however arrested during investigation and was released on bail on the very next day. The trial Court while taking cognizance in the matter, examined the evidence collected against the appellant and observed as under:-

“As far as the allegations against accused Sanjit are concerned, he has been implicated under Section 216 IPC for harbouring of offenders. In the entire challan there is no allegation of harbouring the accused against him. There is no specific allegations of any criminal conspiracy against him. Therefore, he is entitled to discharge. Charge under Section 67 and 68 of IT Act is not made out against the accused and all the accused are entitled to be discharged for that offence.

In view of discussion above, it is held that all the accused (except accused Sanjit) are liable to be charge sheeted for the offence under Section 120-B IPC, Section 8 of PC Act read with section 120-B IPC.”

4. The order of the Additional Sessions Judge, Jind, discharging the appellant from the aforesaid case vide order dated 06.05.2022, has attained finality. From the above order, it is apparent that the only charge



against the appellant was of committing offence under Section 216 IPC for harbouring of offenders. The concerned Court has noticed that in the entire challan, there is no allegation against the appellant of harbouring the accused. In such circumstances, it is apparent that except for appellant's implication in the criminal case during investigation there existed no other material evidence collected against him during investigation. The appellant was otherwise not named in the FIR. In this context, arrest of the appellant and its non-disclosure to the employer needs to be evaluated. The employers relied upon the application form filled by the appellant at the time of applying for job. The answers invited from the applicant included the following question:-

“Whether any prosecution/detention/fine/conviction/sentence against you has been awarded by any court of law for any offence?”

5. The answer of the appellant to the question is in the negative. The employer also highlighted the fact that an attestation form was submitted at the time of appointment by the appellant containing Clause 12, which again was answered in the negative by the appellant. Clause 12 is reproduced hereunder:-

*“12. Have you ever been arrested, or kept under detention or bound down/fined/convicted by a court of law for any offence, or debarred/disqualified by the Public Service Commission from appearing at its examination or restricted by authority/institution?
No*

If the answer is “YES”, full particulars of the case detention, fine, conviction, sentence, etc should be given.”

6. The aforesaid two materials have been construed by the employer to hold the appellant ineligible for employment, as according to the employer the appellant has concealed correct facts with regard to his



implication in the criminal case, as also his arrest, and that such suppression, in itself, constitutes sufficient basis for denial of appointment. The appellant's defence to the above materials before the employer was that the application merely required disclosure whether any prosecution/detention/fine/conviction/sentence was awarded by any Court of law for any offence or not. It was contended that no Court of law has either prosecuted the appellant or detained him and even no fine/conviction/sentence etc. has been imposed upon him. It was further contended that mere arrest for a day by the Investigating Officer was not an information, which was required to be submitted by the appellant. Similar explanation is offered in respect of the declaration submitted by the appellant in the application form. The employer found the explanation of the appellant to be unsustainable, and since the appointment was on the post of the Probationary Officer, the Bank was of the view that a candidate, who has suppressed his background in the form of arrest etc., would not be entitled to the appointment for the post. The view taken by the employer has found approval of the learned Single Judge, who has dismissed the writ petition relying upon the judgment of the Hon'ble Supreme Court in the case of ***"Avtar Singh versus Union of India and others 2016(3) SCC 471"*** as well as in the case of ***"Satish Chandra Yadav versus Union of India and others, 2022 SCC Online SC 1300."***

7. At the outset, we may observe that the appellant's defence that he was not required to furnish details of his arrest due to his ultimate discharge, and the phraseology of the question put to him, does not appear to have much force. The questionnaire referred to prosecution/detention/fine/conviction/sentence awarded by any Court of law, for any offence, may not strictly apply in the facts of the case as the



appellant has not been found guilty by any Court of law, yet it was expected of the candidate to have disclosed such facts in the application. If such disclosure was made, the appellant could have contended before the employer that his arrest during investigation could not have been relied upon to non-suit his claim.

8. Disclosure of criminal antecedents or other incidents with regard to the character of a candidate forms an important aspect in determining the suitability of a candidate for appointment. The ultimate object of the employer however is to assess whether the candidate is fit to be employed or not. In the facts of the present case, neither the appellant was named in the FIR nor his implication was suppressed during the course of investigation and he has ultimately been discharged from the offence by the competent authority. In such circumstances, no material is shown to exist on record which may be construed adverse to appellant for assessing his suitability for appointment. The only material that survives is the alleged non-disclosure of such fact in his application form and the attestation form.

9. The law with regard to adjudging the suitability of a candidate for appointment in light of suppression of material facts has recently been determined by the Hon'ble Supreme Court in ***“State of West Bengal and others versus Mitul Kumar Jana, 2023 INSC 754.”***

10. The Supreme Court in ***Mitul Kumar Jana (supra)*** has considered the earlier judgment of the Court in ***Avtar Singh (supra)*** and ***Satish Chandra Yadav (supra)***, to examine the question whether non-disclosure of criminal case in itself can be a material to discard the candidature of a person. The first paragraph of the judgment contains answer to the question posed. The observations of the Court in the first para itself reads as under:-



“The vexed question is back again. Is it a hard and fast and a cut and dried rule that, in all circumstances, non disclosure of a criminal case (in which the candidate is acquitted) in the verification form is fatal for the candidate’s employment? We think not and it ought not to be so too. Fortunately, we have a judicial chorus supporting our view. Each case will turn on the special facts and circumstances. We have endeavoured to analyse the applicable precedents and have followed those line of cases, which have a striking similarity to the facts at hand.”

11. In **“Ravinder Kumar Kumar versus State of U.P. and others 2024 INSC 131”**, the facts were somewhat similar inasmuch as the character verification clause required the candidate to submit an affidavit with regard to his criminal antecedents. The affidavit also contained a clause as per which any false declaration was to render the candidature liable for cancellation. The Court referred to the facts of the case in para 18 which is reproduced hereunder:-

“As the facts reveal, admittedly on 12.02.2024, when the appellant applied for the post of Constable, there was no criminal case registered or pending. Five days after submitting the application, no doubt, he was embroiled in a criminal case which has since resulted in an acquittal by the trial court, vide order dated 13.09.2024, and no appeal was filed against the same. There is no dispute that under Clause 9 of the recruitment notification dated 20.01.2004, he was required to furnish an Affidavit in the format given by the Selection Committee. It is also specifically mentioned in Clause 9 that if it is found that facts have been concealed in the Affidavit the selection of the candidate is liable for cancellation. As will be seen from paras 4, 5 6 and 7 of the affidavit, information (through somewhat repetitive) was sought. It did obligate the candidate to disclose any criminal case which was registered against him; any arrest made in the past, the details of the cases which were



pending and registered against him; any arrest made in the past, the details of the cases which were pending and, most importantly, the details of acquittals were also called for. It is also an undisputed fact that the appellant said "No" to each of these queries. The appellant's explanation is that since he was acquitted, he bona fide believed that he was only obliged to give details of any pending proceedings."

12. The principle laid down by the judgment of the Supreme Court in **Avtar Singh (supra)**, has been noticed in para 21, which reads as under:-

"21. As would be clear from Avtar Singh (Supra), it has been clearly laid down that though a person who has suppressed the material information cannot claim unfettered right for appointment, he or she has a right not to be dealt with arbitrarily. The exercise of power has to be in a reasonable manner with objectivity and having due regard to the facts. In short, the ultimate action should be based upon objective criteria after due consideration of all relevant aspects."

13. The Judgment of the Supreme Court in **Satish Chandra Yadav (supra)**, has been referred to in para 26, which is reproduced as under:-

"26. We have also kept in mind the recent judgment of this Court in Satish Chandra Yadav v. Union of India and Others, (2023) 7 SCC 530 and the broad principles set out by this Court in para 93, especially, paras 93.1, 93.3 & 93.7. Even the broad principles set out therein recognize that each case should be scrutinized thoroughly by the public employer concerned and the Court is obliged to examine whether the procedure of enquiry adopted by the authority concerned was fair and reasonable. Avtar Singh (Supra) in para 38.2 has held that while passing the order of cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information. Further, in para 38.4.3 of Avtar Singh (Supra) the principle that, in case of suppression or false information of involvement of criminal case, where acquittal has already been recorded, the employer can still consider all relevant facts available as to antecedents and may take appropriate decision as to the continuance of the employee. We have read and understood the



broad principles laid down in Satish Chandra Yadav (supra) with the following crucial para in Avtar Singh (Supra):

"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."

14. Ultimately, the principle of law culled out from the discussion is contained in para 28 which is reproduced as under:-

"28. The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgement of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio economic strata of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered."

15. In Clause iv of para 29 of the judgment, the Court noticed the special features of the case observed as under:-

"No doubt, the multiple columns in the verification affidavit, questions were asked from him in different permutations and combinations. He must have been in a deep dilemma as there was an imminent prospect of losing his employment."

16. After referring to the facts of the case, the Court held as under:-

"For the reasons set out hereinabove, the appeal is allowed and the order of the learned Single Judge and the impugned order of



the Division Bench dated 29.10.2010 in Special Appeal No. 896/2005 are set aside. The order of 12.04.2005 of the third respondent, Commandant 27th Battalion, PAC Sitapur is quashed and set aside. The respondents are directed to appoint the appellant in service on the post of Constable for which he was selected, pursuant to his participation in reference to the Recruitment Notification dated 20.01.2004. 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. At the same time, we direct that the appellant will be entitled for all notional benefits, including pay, seniority and other consequential benefits. Necessary orders shall be passed within a period of four weeks from today. There shall be no order as to costs.”

17. Learned counsel for the appellant therefore submits that in view of the pronouncement of law on the matter issued by the Supreme Court in ***Ravinder Kumar (supra)***, the appellant is entitled to be released from custody.

18. Learned counsel for the respondent/Bank however submits that the office of Probationary Officer in Bank, is an office of trust and once the appellant is found to have suppressed facts relating to his antecedents, then such suppression on its own would be sufficient to deny the appointment to the post. He has relied upon Clause 9 of the appointment letter issued to the appellant, as per which the appellant's confirmation in Bank's services was subject to the satisfactory report regarding his character and antecedents from the police, and non-pendency of any criminal case/prosecution against him. Clause 9 is reproduced hereunder:-

“His/Her confirmation in the Bank's services will be subject to satisfactory report regarding his/her character and antecedents from the Police Authorities and none pendency of any criminal case/prosecution against him/Her. His/Her conviction but released on probation, compounding of offence will also be treated, as



adverse report. In case of adverse/unsatisfactory Police Report, conviction, pendency of any criminal case/prosecution, his/her services are liable to be terminated without notice.”

19. So far as Clause 9 of the appointment letter is concerned, the appointment of the appellant was clearly subject to a satisfactory report with regard to character and antecedents of the appellant from the police authorities and the non-pendency of any criminal case/prosecution. Admittedly, no material adverse to the character or antecedents of the appellant has been shown to exist, inasmuch as mere arrest during the course of investigation cannot be treated as material adverse to his character and antecedents when on conclusion of investigation, it is found that neither any material existed to show that the appellant was involved in the case nor any other role was assigned to him. The investigation in fact resulted in a clean exoneration of the appellant. It was also not a case where any prosecution was pending or ever initiated against the appellant. Clause 9, therefore, could not have been relied upon or invoked to terminate the services of the appellant. There existed no material on record which could have been construed as a material adverse to the appellant for adjudging his suitability for employment.

20. I have heard learned counsel for the parties and perused the record.

21. In light of the law laid down by the Hon'ble Supreme Court, when the facts of this case are analysed, it is noticed that the appellant was arrested on 16.11.2015 during the course of investigation but was released on bail on the very next day by the police. The Sessions Judge while framing charge has clearly observed that neither the appellant was named in the FIR, nor any material was collected against him during the course of



investigation. For this reason, the appellant was discharged while cognizance was taken against other accused. The observation made by the concerned competent Court makes it apparent that there existed no material whatsoever against the appellant which could adversely affect his character or suitability for employment. Even otherwise, the implication by the Investigating Officer of appellant was for harbouring the accused which too was not substantiated by any evidence during the course of investigation. In such circumstances, it cannot be said that any adverse material existed against the appellant on the basis of which it could be said that the antecedents of the appellant were not satisfactory.

22. So far as the charge of suppression made against the appellant is concerned, this Court has already observed that the disclosure required in the application and the attestation form pertained to arrest, detention, sentence, etc. by the Court. This was not made out against the appellant. Though it may have been desirable for the appellant to disclose such fact by way of abundant precaution, but not doing so, by the appellant would not make it a case of suppression.

23. This Court finds substance in the contention of the counsel for the appellant that employment, even as on date, in the organized sector is rather scarce and, therefore, candidates may tend to resort to a literal interpretation of such Clauses with an intent to, somehow or the other, protect their employment. For the error of judgment on part of the appellant in withholding such information, the appellant has already been made to suffer. Although, the appellant has secured employment in an open competition and has worked for nearly two years but he lost his job and has been out of employment for the last five years. He has become overage for most of alternative employment.



24. These are considerations which cannot be entirely brushed aside when the Court has to examine the question of legality of termination inflicted upon the appellant. Considering the above facts, this Court is of the view that, for the error of judgment on his part in not disclosing the factum of his arrest during investigation, the appellant has been sufficiently punished. This Court, therefore, is of the considered view that substantial justice would be done if appellant’s order of termination is interfered with, while denying him salary for the period during which he has not worked.

25. Consequently, this Court allows the present appeal and sets aside the order of the learned Single Judge, as also the orders of termination. The appellant would be entitled to be reinstated in the job along with continuity of service. However, he shall not be entitled to any monetary benefit for the period during which he has remained out of job. We may indicate that we are granting relief to the appellant in the peculiar facts of this case, where no adverse material otherwise existed on record against him.

26. Pending applications, if any, shall also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(RAMESH KUMARI)
JUDGE

11.09.2025
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No