

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

LPA No. 913 of 2018 (O&M)

Reserved on: 23.09.2025.

Date of pronouncement: 29.09.2025

2025.PHHC.136427 DB



Jitender Kaushik

.... Appellant

versus

Union of India and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present Mr. Chanderhas Yadav, Advocate, for the appellant.

Ms. Puneeta Sethi, Advocate, for respondent no.1.

Mr. Umesh Narang, Advocate, for respondent nos. 2 and 3.

ASHWANI KUMAR MISHRA, J.

Appellant was selected for appointment to the post of Junior Technical Assistant in the Central Warehousing Corporation. He was appointed on 10.07.2014. He joined on 25.07.2014. His engagement was discontinued soon thereafter on the ground that he had not disclosed his criminal antecedents. Undisputedly, the appellant was implicated in two FIRs i.e. FIR No. 358 of 02.06.2011 and 383 of 12.06.2011. His appointment has ultimately been cancelled on the ground of suppression vide order dated 12.05.2015. CWP No. 12335 of 2015 filed by the appellant challenging the order dated 12.05.2015 has been dismissed by the learned Single Judge vide judgment dated 22.03.2018. Thus aggrieved, the appellant/petitioner is before us in this appeal.

2. After joining, the appellant submitted attestation form on 30.07.2014. In the attestation form he was required to furnish information.

Clause 12-A and 12-B of the attestation form as also the reply against it are reproduced as under:-

<i>“12. A Have you ever been arrested, prosecuted, kept under detention of bound down/ fined, convicted by a Court of law for any office or debarred/ disqualified by a Public Service Commission from appearing at the examination rusticated by any University or authority/ Institution ?</i>	<i>Yes</i>
<i>12.B Is any case pending against you in any Court of Law, University or any other educational Authority/ Institution at the time of filling up this attestation form ? If the Answer to ‘a’ or ‘b’ if ‘yes’ full particulars of the case, arrest, detention fine conviction, sentence etc. and the nature of the case pending in the Court/ University/ Educational Authority etc. at the time of filling up the form should be given.</i>	<i>Yes. A criminal case State vs Sunil etc. FIR 358 dated 2/6/11 U/S 307 etc. PS Civil Line Thana is pending in the Court of Sh. SK Sharma, ASJ, Hisar.</i>

3. So far as FIR No. 383 dated 12.06.2011 is concerned, the allegation therein was under Section 398/401 IPC read with Section 25 of the Arms Act. The concerned Additional Sessions Judge, Hisar in Sessions Case No. 82 acquitted the appellant on the ground that the prosecution case is not convincing and has failed to prove its case beyond reasonable doubt. So far as the other case under Section 307 IPC is concerned, the matter is reported to be pending.

4. On coming to know the criminal antecedents of the appellant, the matter was referred to the higher authorities of the Corporation at New Delhi. The appellant was not permitted to join till final decision was taken by the Corporate office. Various reasons have been assigned for cancelling the appointment offered to the appellant. Learned Single Judge has gone into the merits of the matter and has come to the conclusion that cancellation of

appointment of the appellant on account of non-disclosure of details regarding FIR No. 383 in Column No.12.A of the attestation form cannot be faulted with.

5. Learned counsel for the appellant has placed reliance upon judgment in **Ravindra Kumar vs State of U.P.** (2024) 5 SCC 264, to submit that non-disclosure of details regarding criminal case in FIR No. 383 *ipso facto* cannot be a ground for cancellation of appointment. He also placed reliance on the judgment in **Avtar Singh vs Union of India** (2016) 8 SCC 471. He submits that the employer will have to examine whether the employee is rendered unsuitable for appointment on account of alleged suppression on his part.

6. Learned counsel for the employer, on the other hand, submits that the non-disclosure of details regarding FIR No. 383 shows suppression on part of the appellant with regard to his attestation form, which rendered him unfit for appointment.

7. Clause 12-A and 12-B have already been reproduced above. A conjoint reading of these two clauses reveals that where the answer to Clause 12-A was in affirmative, the candidate was required to furnish details of his implication also. Undisputedly, the appellant had not furnished details of the case referred to in Clause 12-A of the attestation form.

8. In **Ravindra Kumar**'s case (supra), the Supreme Court has held as under:-

“22. The law on this issue is settled by a three-Judge Bench of this Court in Avtar Singh. Paras 34, 35, 36 and 38, which sets out the conclusions, are extracted hereinbelow: (SCC pp. 506-508)

"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 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 suppression veri or suggestio falsi, knowledge of the fact must be attributable to him.

(emphasis supplied)

23. As would be clear from Avtar Singh, 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.

32. The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgment 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. 33. Having discussed the legal position”

9. Law by now is well settled that mere suppression of criminal antecedents, *ipso facto*, would not justify cancellation of appointment. The employer will have to examine the facts and circumstances of each case to determine the suitability of a candidate for appointment. The nature of job to be performed as also the allegation on which criminal proceedings were initiated, etc. would be relevant factors to be gone into by the employer. The object ultimately is to determine the suitability of a candidate for appointment.

10. So far as FIR No. 358 of 2011 is concerned, the allegations therein relate to charge of attempt to murder, extortion; criminal conspiracy; etc. Sessions Case No.26-SC dated 19.04.2012 arising out of FIR No.358 dated 02.06.2011 registered under Sections 307, 386, 120-B and 34 IPC and 25/54/59 of Arms Act, Police Station, Civil Lines Hisar, was pending at the stage of submission of attestation form i.e. 30.07.2014. Despite that, the

appellant chose not to disclose the said information in column No.12.A of the said attestation form. The charges in this case have been noticed. The motorcycle used in the offence was allegedly recovered from the appellant. The reason for acquittal was that the witnesses had turned hostile and consequently the prosecution failed to prove its case beyond reasonable doubt. The allegations against the appellant cannot be said to be trivial in nature.

11. As regards acquittal of appellant in FIR No. 383 of 2011 is concerned, a perusal of the judgment would indicate that the acquittal was on account of the witnesses turned hostile.

12. Learned counsel for the employer has contended that the appointment in the Corporation would have to be offered to persons of proven integrity, inasmuch as various commodities/goods, etc., belonging to others are stocked in the godowns of the employer. Someone who is implicated in multiple cases cannot be adjudged suitable for appointment, where the implication itself is in serious offences. Mere acquittal on account of witnesses turning hostile will be a factor to be taken note of. What are the allegations or material against the employee can be looked into where the acquittal is because the witnesses have turned hostile. The satisfaction of the employer with regard to the suitability of the employee would ordinarily not be open to judicial review unless the exercise of power is shown to be mala fide or for extraneous consideration, etc. In this case, there is no allegation of mala fide levelled against the employer. The satisfaction of the employer with regard to suitability of the candidate cannot be termed to be perverse or irrational. The subjective satisfaction of the employer if is based upon

objective material available on record then this Court will not interfere in the matter by virtually exercising appellate powers.

14. Dismissal of appellant’s writ petition by the learned Single Judge, therefore, requires no interference. Accordingly, the instant appeal fails and stands dismissed.

15. Pending miscellaneous application (s), if any, also stands disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

29.09.2025
vs

(ROHIT KAPOOR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No