



208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 04.11.2025

1. LPA-67-2020 (O&M)

Giani Ram ...Appellant

Vs.

Union of India and others ...Respondents

2. LPA-553-2020 (O&M)

Union of India and others ...Appellants

Vs.

Giani Ram ...Respondent

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

Present: Mr. Rohit Mittal, Advocate
for the appellant in LPA-67-2020 and
for the respondent in LPA-553-2020.

Mr. Satya Pal Jain, Additional Solicitor General of India-UOI with
Mr. Sunil Kumar Sharma, Sr. Panel counsel
for the appellants in LPA-553-2020 and
for respondents in LPA-67-2020.

ASHWANI KUMAR MISHRA, J. (Oral)

1. These two cross appeals arise out of the judgment dated 21.08.2019 of the learned Single Judge and with the consent of learned counsel for the parties, both the appeals are being decided by this common judgment.

2. It transpires that Giani Ram was appointed as Constable in the Central Reserve Police Force (CRPF). He had joined and was working but his services were terminated vide order dated 30.10.1996 on the ground that he had suppressed criminal proceedings initiated against him, wherein, he was already acquitted. The writ petition was filed in 1996 and has ultimately been decided



by the learned Single Judge on 21.08.2019, holding the termination to be bad in law. Learned Single Judge has granted benefit of continuity in service but without any backwages and benefit of seniority. Aggrieved by the judgment of learned Single Judge, both the parties filed appeals. Union of India has preferred an appeal to the extent of termination order dated 30.10.1996 has been set aside and relief of continuity in service has been granted to him. The petitioner-employee has also preferred an appeal and is aggrieved by denial of backwages as well as benefit of seniority and notional fixation of salary. The relief of reinstatement is subject to medical examination of the appellant and if he is found medically fit.

3. We have heard leaned counsel for the parties at length.
4. It is not in dispute that the advertisement for the post was issued on 24.06.1995. The appellant was implicated in FIR No. 209 dated 02.10.1993 under Sections 323, 325, 34 IPC. The appellant was acquitted in the FIR on 01.12.1994. It is therefore apparent that the acquittal of the appellant was prior to the publication of the advertisement itself. Learned Single Judge has taken note of Clause 12(a), which required the candidate to disclose as to whether he has ever been arrested, prosecuted, kept under detention or bound down/ fined, convicted by a Court of law for any offence. The appellant did not inform about his implication and subsequent acquittal in the criminal case. It was precisely for this reason that the order of termination was passed against him.
5. So far as withholding of information with regard to appellant's implication in criminal case is concerned, the law is by now well settled, according to which, it is not just implication in the criminal case but the impact which it carries in determining the suitability of the candidate which has to be



taken into account. The termination otherwise cannot be a matter of course. In '**Ravindra Kumar vs. State of U.P. & others**', 2024(2) SCC (L&S) 87, the issue has been elaborately considered and the applicable principle stands crystallized. After referring to the previous judgments on this issue, the Court held as under in para 1, 28 to 30:-

"1. 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.

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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.

29. Having discussed the legal position above, it is necessary to set out certain special features that obtain in the case at hand.

i. The appellant hails from the small village Bagapar, P.O.



Kataura, Police Station Gauri Bazar, District Deoria, U.P.

ii. On the date of the application, there was no criminal case pending and there was no suppression in the application form.

iii. The criminal case was registered when he was 21 years of age for the offences very similar to the one referred to in Sandeep Kumar (supra) and even in the criminal case he was acquitted.

iv. 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.

v. Most importantly, we find from the verification documents fairly and candidly made available by the learned Additional Advocate General, that the verification report after noticing the criminal case and the subsequent acquittal stated that his character was good, that no complaints were found against him and that his general reputation was good.

vi. Not stopping there, the person who visited the spot even wished him a bright future in the report.

vii. The SHO, Gauri Bazar Police Station, who forwarded the report to the Superintendent of Police after reiterating the contents of the report observed that he was acquitted and no appeal was filed. Further, there was no other case pending and nor was any case registered against the candidate.

viii. The SHO certified the character of the candidate as excellent and that he was eligible to do Government Service under the State Government. He annexed the report of the Police Station as well as the report of the Gram Pradhan and the Court documents.

ix. The Superintendent of Police, in his letter to the



Commandant, endorsed the report and reiterated that the character of the candidate was excellent.

x. While examining whether the procedure adopted for enquiry by the authority was fair and reasonable, we find that the order of cancellation of 12.04.2005 does not even follow the mandate prescribed in Clause 4 of the Form of verification of character set out in the earlier part of this judgment. Like it was found in Ram Kumar (supra) instead of considering whether the appellant was suitable for appointment, the Appointing Authority has mechanically held his selection was irregular and illegal because the appellant had furnished an affidavit with incorrect facts. Hence, even applying the broad principles set out in para 93.7 of Satish Chandra Yadav (supra), we find that the order of cancellation dated 12.04.2005 is neither fair nor reasonable. Clause 9 of the recruitment notification has to be read in the context of the law laid down in the cases set out hereinabove.

30. 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.

Relief:



31. 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."

6. In the facts of the present case, we find that the appellant was acquitted prior to the issuance of the advertisement itself. We find substance in the view taken by the learned Single Judge that at the young age of 23, the appellant may not have correctly understood the requirement on his part in furnishing information relating to his implication in criminal case when he stood acquitted therein. Otherwise, we find that once the acquittal was recorded prior to the initiation of the recruitment process itself, the non-disclosure of appellant's implication in such criminal case under Sections 323, 325, 34 IPC cannot constitute sufficient basis to hold him not entitled to public appointment. We are, thus, in respectful agreement with the view taken by learned Single Judge in setting aside the order of termination.

7. To that extent, we dismiss the appeal of the Union of India.

8. Coming to the appellants grievance with regard to denial of backwages and benefit of seniority etc., we find that the learned Single Judge has already directed reinstatement of the appellant after his medical examination and on finding him fit. On the principle of 'No work No pay', backwages have rightly been denied. We find no error in this view of the learned Single Judge, inasmuch as the appellant has admittedly not worked for this period. The appellant cannot claim immunity from the consequences of his error in failing to disclose relevant facts to the authorities.
9. In such circumstances, the denial of backwages cannot be faulted.
10. However, we are of the view in addition to continuity in service, the appellant would be entitled to benefit of his past services and his salary and other benefits would be determined by granting him the notional benefit of his working from the year 1995. We are however of the view that the appellant would not be entitled to seniority in the cadre. Subject to the modification aforesaid, we dispose of the appeal filed by the appellant while dismissing the appeal filed by Union of India.
11. All the pending miscellaneous applications, if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

04.11.2025

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No