



2025:DHC:1916-DB



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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 11.03.2025
Date of Decision: 25.03.2025

+ LPA 13/2021, CM APPLs. 790/2021 & 66267/2023

DELHI TRANSPORT CORPORATION
(DTC) THROUGH ITS CHAIRMANAppellant
Through: Ms. Manisha Tyagi, Adv. with Ms.
Monika, Adv.

versus

MANOHAR LAI (DRIVER) BATCH
NO. 26775 TOKEN NO. 68780Respondent
Through: Ms. Kaadambari Singh, Sr. Adv.
with Ms. Muskaan Chawla and Ms. Tanya
Singh Kaurav, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T
25.03.2025

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AJAY DIGPAUL, J.

1. The relevant facts that emerged from the pleadings are as follows:

The respondent/ Manohar Lal was appointed as a driver with the appellant/Delhi Transport Corporation¹ on compassionate grounds after the demise of his father, who was a DTC conductor with an unblemished

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¹ "DTC", hereinafter

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record. This was confirmed to him vide appointment letter dated 09.11.2011 and he joined service on 11.11.2011. His appointment was subject to a probation period of two years.

2. While in service, the respondent was directed to fill out a Character Verification Report² Form on 18.05.2012, which was then sent for verification to the Deputy Commissioner of Police Office on 26.06.2012.

3. The verification report of the CVR, obtained from the Police Authority vide No. 11181/CV/V/CVR-SB, revealed that FIR No. 53/08 had been registered against the respondent under Sections 448 and 341 of the Indian Penal Code, 1860³, at Police Station Lodhi Colony. It was alleged by the appellant that the respondent had failed to disclose this information in Column 12 of the CVR Form, which required disclosure of any pending criminal cases.

4. In light of this alleged suppression, a Charge Sheet No. GHZ/SL No- 26/12/1105 was issued on 09.08.2012, calling upon the respondent to provide clarification as to why disciplinary action should not be taken against him. The respondent, in his reply dated 17.08.2012, denied any deliberate concealment and asserted that the FIR pertained to a family dispute over ancestral property, which had no bearing on his employment.

²“CVR”, hereinafter
³“IPC”, hereinafter



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5. A domestic enquiry was conducted wherein the respondent, despite being granted opportunities, declined to engage any representation and chose to defend himself. The enquiry report, after considering oral and documentary evidence, found the charges against the respondent to be proved as he voluntarily confessed the offence without any coercion.

6. Subsequently, a show cause notice was issued on 04.11.2013, directing the respondent to explain why his services should not be terminated. In response, the respondent submitted a reply on 08.11.2013, but the explanation was deemed unsatisfactory.

7. Consequently, the order of termination was passed on 08.11.2013, under Clause 9(a)(1) of the D.R.T.A. (Conditions of Appointment and Service) Regulations, 1952. The termination order is reproduced as under:

**“DELHI TRANSPORT CORPORATION
S.N. DEPOT: NEW DELHI**

No. DM/SND/ AI(T)/2013/3809 DT: 8.11.13

On concealing the facts in CVR a charge sheet was issued by disciplinary authority vide letter No. GPD/AI(T)/C-26/1105 dated 9.8.12 in which charges leveled against driver has been proved by EO (SBU) and accepted by you during the course of enquiry. And whereas after considering the enquiry report Sh. Manohar Lal Driver B.No. 36775, T.No. 68780 was served a show cause notice No. DM/SND/AI(T)/13/3687 dated 4.11.13 proposing to impose upon him penalty of termination from the services of this corporation.

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And whereas Sh. Manohar Lal Driver B.No. 36775 T.No. 68780 the reply submitted by him vide Diary No. SN/5361 dated 8.11.13 has not found satisfactory.

Now after carefully examining the material the case file the proposed punishment is hereby confirmed as follows:

He is hereby terminated from the services of this Corporation w.e.f. 9.11.13 under clause 9 (a)(1) of DRTA (Conditions of Appointment and Services) Regulation, 1952.

He is required to deposit all the DTC articles in his possession with the I/c Livery Section within 24 hrs. of the receipt of this Memo. Non deposit of DTC articles by him in accordance with instructions contained in Office Order No. 21 dated 27.1.1954 will lead to pay a penalty of Rs. 50/- per day for the days he keeps any of the DTC articles in his possession after the specified period of 24 hours. In case a Police report is lodged on the date of the loss of returnable DTC articles a token penalty of Rs. 5000/- will be imposed at the time of settlement in accordance with Office Order No. 3 issued vide Admi-7 (42)/2013/109 dated 3.2.13.

*Sd/-
DEPOT MANAGER*

*Shri Manohar Lal, S/o Sh. Sat Pal
Driver B.No. 36775, T.No. 68780
R/o: F-53, B.K. Dutt Colony. New Delhi-110003"*

8. Aggrieved by the termination order, the respondent preferred an appeal before the Competent Appellate Authority of the DTC on 27.11.2013, which was dismissed.

9. The respondent then approached the Deputy Labour Commissioner by filing a Statement of Claim on 17.03.2014, following which conciliation proceedings ensued. As the parties failed to arrive at a settlement, a failure report was issued on 15.06.2015. The respondent thereafter instituted proceedings before the Labour Court, Delhi, on

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05.08.2015, and the matter was registered as LC No. 2319/16.

10. The Labour Court framed issues on 06.01.2016 and 09.03.2016, including whether the departmental enquiry was vitiated for non-compliance with principles of natural justice and whether the termination order was illegal and unjustified. The evidence led by both parties was duly considered. An interim award on 04.03.2017 upheld the validity of the domestic enquiry, and the matter was subsequently reserved for final adjudication. By way of award dated 22.04.2017, the Labour Court ruled in favour of the respondent, directing his reinstatement with all consequential benefits along with 25% back wages from the date of termination. The Court observed that since the criminal case arose from a family dispute over ancestral property and did not involve moral turpitude, the non-disclosure of such proceedings did not warrant termination.

11. Aggrieved thereby, the appellant challenged the award dated 22.04.2017 by filing W.P.(C) 6558/2017 before this Court, wherein the following reliefs were sought:

“a) Quash and set aside the Award dated 22.04.2017 passed by the Court of Sh. Umed Singh Grewal, Ld. PILOT Court/POLC-XVir, Karkardooma Courts, Delhi in LC No. 2319/16 (Old No. DID 62/15

b) Pass any other order(s) and further orders may also be passed by this Hon'ble Court in favor of the Petitioner and against the Respondents as may be deemed fit in the facts and circumstances of the case.”

It was contended by the appellant in the petition that the suppression of

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material facts deprived the employer of making an informed assessment regarding the respondent's suitability for employment. The learned Single Judge, relying on the judgment of the Hon'ble Supreme Court in *Avtar Singh v Union of India*⁴, held that in cases where an employee has not been convicted of a serious offence, and the pending criminal case does not involve moral turpitude, termination solely on the ground of non-disclosure is not justified. The writ petition was accordingly dismissed on 27.01.2020. The concluding paragraphs of the judgment delivered by the learned Single Judge are reproduced as under:

"8. However, what also emanates from the preceding discussions, is that the lis arose apropos an ancestral property of the respondent, which was sought to be disposed-off allegedly in an objectionable manner, and the response of the respondent is stated to be most natural i.e. to object the entry of a third party into his ancestral property, in which he claims to be in rightful ownership. More significantly, the lis was a dispute between family members, it could not possibly have any bearing upon his work with the DTC. At worst, it was a case of criminal trespass by a third party, whose rights are still in dispute. It is claimed that there is no case of criminal assault on anybody.

9. Furthermore, when an enquiry was made, the respondent had duly furnished the requisite documents to the said Corporation, which has not taken a view on the merits of the case but has simply said that since there was a non-disclosure, therefore, it terminated his service.

10. In the circumstances, the conduct of the respondent which was primarily originated from a civil dispute and allegedly did not entail criminal physical assault, the non-disclosure cannot be considered to be of so significant a nature as to render him to be dismissed from services. The petition raises no significant reason to interfere with the impugned order. It is without merit and is, accordingly, dismissed."

12. Aggrieved by the judgment of the learned Single Judge, the



appellant has filed the present LPA-13/2021 challenging the judgment dated 27.01.2020 in W.P.(C) 6558/2017, wherein the following reliefs are sought:

*“a) call for the records from the Learned Single Judge and examine the same and thereafter Your Lordships may be please to set aside/quash the Impugned Judgement dated 27.01.2020 (ANNEXURE A - 1) passed in Writ Petition No. 6558/2017.
b) Pass any other order(s) and further orders may also be passed by this Hon’ble Court in favor of the Petitioner and against the Respondents as may be deemed fit in the facts and circumstances of the case.”*

13. We have heard this matter on 04.02.2025 where the detailed facts and submissions of both the sides were heard and recorded.

14. The relevant portions are reproduced below for clarity and convenience.

“14. We have heard Ms. Manisha Tyagi, learned Counsel for the appellant and Ms. Kaadambari Singh, learned Senior Counsel for the respondent.

*15. Ms. Tyagi submits that the law in **Avtar Singh** has been revisited by the Supreme Court in several other decisions thereafter, of which she cites **Rajasthan Rajya Vidyut Prasaran Nigam v Anil Kanwariya**⁵ and **Satish Chandra Yadav v UOI**⁶. She submits that the position in law that emerges from these decisions is that the suppression of the existence of criminal case is by itself moral turpitude and entails termination of service, and that nothing more is required. She points out that the fact that the respondent did not disclose the fact of pendency of criminal case against him when called upon to do after he was employed with DTC, is not in dispute.*

16. As such, she submits that the DTC was well within its right to terminate the respondent and the decision could not have been upset

⁵(2021) 10 SCC 136
⁶(2023) 7 SCC 536



either by the learned labour court or by the learned Single Judge.

17. As against this, Ms. Kaadambari Singh, learned Senior Counsel for the respondent, submits that the decision in **Avtar Singh** and **Satish Chandra Yadav** as well as several other decisions have been considered by another two Judge Bench of the Supreme Court in **Ravindra Kumar v State of UP**⁷. She has drawn our attention to paras 1, 21 to 30 of the said decision which may be reproduced thus:

“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.

21. The State had taken the position that Clause 9 of the recruitment notification and the queries in the affidavit were quite clear and that there being suppression, the cancellation was perfectly justified.

22. The law on this issue is settled by a three-Judge Bench of this Court in **Avtar Singh** (supra). Paras 34, 35, 36 & 38, which sets out the conclusions, are extracted herein below: -

“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 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 suppression or suggestion of false information, knowledge of the fact must be attributable to him."*



(Emphasis supplied)

23. 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.

24. **Avtar Singh**(supra) also noticed the judgment in **Commissioner of Police and Others v Sandeep Kumar**⁸. In **Sandeep Kumar**(supra), this Court set out the story of the character “Jean Valjean” in Victor Hugo’s novel *Les Miserables*, where the character was branded as a thief for stealing a loaf of bread for his hungry family. It also discussed the classic judgment of Lord Denning in **Morris v Crown Office**⁹ and concluded as follows: -

“10... In our opinion, we should display the same wisdom as displayed by Lord Denning.

11. As already observed above, youth often commits indiscretions, which are often condoned.

12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.”

25. Thereafter, in **Avtar Singh**(supra) dealing with **Sandeep Kumar**(supra), this Court observed as under:

“24...This Court has observed that suppression related to a case when the age of Sandeep Kumar, was about 20 years. He was young and at such age people often commit indiscretions and such indiscretions may often be condoned. The modern approach should be to reform a person instead of branding him a criminal all his life. In *Morris v. Crown Office*, the observations made were that young people are no ordinary criminals. There is no violence, dishonesty or vice in them.

⁸(2011) 4 SCC 644
⁹(1970) 2 QB 114



They were trying to preserve the Welsh language. Though they have done wrong but we must show mercy on them and they were permitted to go back to their studies, to their parents and continue the good course.”

26. *In Ram Kumar v State of U.P. and Others¹⁰*, another case noticed and discussed in *Avtar Singh*(supra) arising out of near identical facts and construing a similar clause in the verification form, this Court, while granting relief, held as follows: -

“9. We have carefully read the Government Order dated 28-4-1958 on the subject “Verification of the character and antecedents of government servants before their first appointment” and it is stated in the government order that the Governor has been pleased to lay down the following instructions in supersession of all the previous orders:

“The rule regarding character of candidate for appointment under the State Government shall continue to be as follows:

The character of a candidate for direct appointment must be such as to render him suitable in all respects for employment in the service or post to which he is to be appointed. It would be the duty of the appointing authority to satisfy itself on this point.

12. *On a reading of the order dated 18-7-2002 of the Additional Chief Judicial Magistrate it would show that the sole witness examined before the court, PW 1, Mr Akhilesh Kumar, had deposed before the court that on 2-12-2000 at 4.00 p.m. children were quarrelling and at that time the appellant, Shailendra and Ajay Kumar amongst other neighbours had reached there and someone from the crowd hurled abuses and in the scuffle Akhilesh Kumar got injured when he fell and his head hit a brick platform and that he was not beaten by the accused persons by any sharp weapon. In the absence of any other witness against the appellant, the Additional Chief Judicial Magistrate acquitted the appellant of the charges under Sections 323/34/504 IPC. On these facts, it was not at all possible for the appointing authority to take a view that the appellant was not suitable for appointment to the post of a police constable.*

13. *The order dated 18-7-2002 of the Additional Chief Judicial Magistrate had been sent along with the report dated 15-1-2007 of*



Jaswant Nagar Police Station to the Senior Superintendent of Police, Ghaziabad, but it appears from the order dated 8-8-2007 of the Senior Superintendent of Police, Ghaziabad, that he has not gone into the question as to whether the appellant was suitable for appointment to service or to the post of constable in which he was appointed and he has only held that the selection of the appellant was illegal and irregular because he did not furnish in his affidavit in the pro forma of verification roll that a criminal case has been registered against him.

14. *As has been stated in the instructions in the Government Order dated 28-4-1958, it was the duty of the Senior Superintendent of Police, Ghaziabad, as the appointing authority, to satisfy himself on the point as to whether the appellant was suitable for appointment to the post of a constable, with reference to the nature of suppression and nature of the criminal case. Instead of considering whether the appellant was suitable for appointment to the post of male constable, the appointing authority has mechanically held that his selection was irregular and illegal because the appellant had furnished an affidavit stating the facts incorrectly at the time of recruitment.*

17. *For the aforesaid reasons, we allow the appeal, set aside the order of the learned Single Judge and the impugned order of the Division Bench and allow the writ petition of the appellant and quash the order dated 8-8- 2007 of the Senior Superintendent of Police, Ghaziabad. The appellant will be taken back in service within a period of two months from today but he will not be entitled to any back wages for the period he has remained out of service. There shall be no order as to costs."*

Ram Kumar was also a case of cancellation of selection to the post of Constable.

27. *More recently in **Pawan Kumar vs. Union of India**¹¹, involving appointment to the post of Constable in Railway Protection Force and setting aside the order of discharge due to alleged suppression in the verification form, this Court, after noticing Avtar Singh (supra) held as under: -*

"11. This cannot be disputed that the candidate who intends to participate in the selection process is always required to furnish correct information relating to his character and antecedents in the verification/attestation form before and after induction into service. It



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is also equally true that the person who has suppressed the material information or has made false declaration indeed has no unfettered right of seeking appointment or continuity in service, but at least has a right not to be dealt with arbitrarily and power has to be judiciously exercised by the competent authority in a reasonable manner with objectivity having due regard to the facts of the case on hand. It goes without saying that the yardstick/standard which has to be applied with regard to adjudging suitability of the incumbent always depends upon the nature of post, nature of duties, effect of suppression over suitability to be considered by the authority on due diligence of various aspects but no hard and fast rule of thumb can be laid down in this regard.

13. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into consideration, while taking appropriate decision regarding continuance/suitability of the employee into service.

20. Consequently, the appeal succeeds and is allowed. The judgment of the Division Bench of the High Court dated 17-11-2015 and the order of discharge dated 24-4- 2015 and dated 23-12-2021 are hereby quashed and set aside. The Respondents are directed to reinstate the appellant in service on the post of Constable on which he was selected pursuant to his participation in reference to Employment Notice No. 1/2011 dated 27-2-2011. 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 and at the same time he will be entitled for all notional benefits, including pay, seniority and other consequential benefits, etc. Necessary orders shall be passed within a period of one month from today. No costs."



28. In **Mohammed Imran v State of Maharashtra and Others**¹², no doubt, a case where a candidate made the disclosure of criminal case, this Court speaking through Navin Sinha, J. made the following telling observation which resonates with the hard realities of everyday existence:

“5. Employment opportunities are a scarce commodity in our country. Every advertisement invites a large number of aspirants for limited number of vacancies. But that may not suffice to invoke sympathy for grant of relief where the credentials of the candidate may raise serious questions regarding suitability, irrespective of eligibility. Undoubtedly, judicial service is very different from other services and the yardstick of suitability that may apply to other services, may not be the same for a judicial service. But there cannot be any mechanical or rhetorical incantation of moral turpitude, to deny appointment in judicial service simpliciter. Much will depend on the facts of a case. Every individual deserves an opportunity to improve, learn from the past and move ahead in life by selfimprovement. To make past conduct, irrespective of all considerations, an albatross around the neck of the candidate, may not always constitute justice. Much will, however depend on the fact situation of a case.”

29. We have also kept in mind the recent judgment of this Court in **Satish Chandra Yadav vs. Union of India and Others** 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.

30. 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.”

31. We have also examined the judgment in **State of T.N. v. J. Raghunees**¹³ and we find that the case of the appellant is more aligned with the facts in the judgment of this Court in **Pawan Kumar** (supra), **Sandeep Kumar** (supra) and **Ram Kumar** (supra). Hence, we find that the judgment in **State of T.N. v. J. Raghunees** is clearly distinguishable.

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 socioeconomic 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 above, it is necessary to set out certain special features that obtain in the case at hand.

33.1. The appellant hails from the small Village Bagapar, PO Kataura, Police Station Gauri Bazar, District Deoria, U.P.

33.2. On the date of the application, there was no criminal case pending and there was no suppression in the application form. 33.3. 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.

33.4. 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.



33.5. 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.

33.6. Not stopping there, the person who visited the spot even wished him a bright future in the report. 33.7. 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.

33.8. 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.

33.9. The Superintendent of Police, in his letter to the Commandant, endorsed the report and reiterated that the character of the candidate was excellent.

33.10. While examining whether the procedure adopted for enquiry by the authority was fair and reasonable, we find that the order of cancellation of 12-4-2005 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 (see para 13, above). 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 12-4-2005 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.

34. 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.”

18. **Ravindra Kumar**, it appears, is the latest decision on the point. It considers **Avtar Singh**, **Satish Chandra Yadav** and several other decisions. The Supreme Court has, in that case, held that, even if there was a requirement of the employee truthfully disclosing existence of a criminal case against him, the failure on the part of the employee in doing so cannot, in every case, justify discontinuance of his service by a stroke of the pen. The authority concerned is required to take a holistic view of the matter and take into account all factors which apply. Among the factors which so apply, according to the Supreme Court, are the nature of the office, 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.

19. Keeping in mind the fact that the Supreme Court has held that several other factors are also required to be kept in mind while deciding the nature of the relief to be granted in such a case, and keeping in mind the fact that the respondent has only six months to superannuate, we deem it appropriate to take a call on the matter ourselves instead of remitting it to the learned Single Judge or to the departmental authorities.”

15. In the afore-extracted paragraphs of the order dated 04.02.2025, we have observed that the Hon’ble Supreme Court in the judgment of **Avtar Singh** has laid down principles governing the verification of character and antecedents of candidates for employment, particularly in cases involving suppression of information or submissions of false information regarding criminal prosecution, arrest or pendency of criminal cases.



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16. The Hon'ble Supreme Court therein laid down several key guidelines for assessing a candidate's disclosure of criminal history in government service appointments:

- (i) **Fair Disclosure:** The candidate must provide true and complete information regarding any conviction, acquittal, arrest, or pending criminal cases whether before or after entering into services.
- (ii) **Employer's Discretion:** Employers have the discretion to terminate services or cancel candidature for providing false information, but they must consider the special circumstances and applicable Government Order/Instructions/Rules.
- (iii) **Impact of Suppression:** The nature of suppressed information and its impact on the candidate's suitability for the post must be considered. Trivial offences may be condoned, while serious offences may justify termination.
- (iv) **Acquittal Consideration:** Even if candidate is acquitted, the employer can consider the nature of the offences and the ground of acquittal (as for example, technical ground or benefit of doubt) before deciding on employment.



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- (v) Specificity of Verification Form: Verification Form must be specific and clear about information required. Action cannot be taken for suppression of information that was not explicitly asked for.
- (vi) Confirmed Employees: For confirmed employees holding civil post, a departmental enquiry is necessary before termination for suppression of false information.
- (vii) Multiple pending cases: Deliberate suppression of multiple pending cases is significant and may justify termination.
- (viii) Unknown Pending Cases: If criminal case was pending but unknown to the candidate at the time of filling the form, the seriousness of crime must be considered by Appointing Authority.

17. Thus it can be concluded that the Hon'ble Supreme Court emphasized that the exercise of power by employer must be reasonable, objective and based on due consideration of all relevant aspects, including the nature of the post and duties to be rendered.

18. The important points from *Avtar Singh* that are considered in the case of *Ravindra Kumar* are as under:



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- (i) **Objective Criteria:** The judgment emphasizes that the ultimate action should be based on objective criteria after due consideration of all relevant aspects, as stated in *Avtar Singh*.
- (ii) **Suppression of Material Information:** It acknowledges that suppression of material information pre-supposes that what is suppressed matters significantly. Not every technical or trivial matter should lead to cancellation of candidature or termination of services.
- (iii) **Reasonable Exercise of Power:** The judgment reiterates that while a person who has suppressed material information cannot claim an unfettered right for appointment, they have a right not to be dealt with arbitrarily. The exercise of power must be reasonable and objective.
- (iv) **Special Circumstances:** The judgment notes that the employer may take notice of special circumstances while passing an order of termination or cancellation of candidature for giving false information.
- (v) **Nature of Offence and Acquittal:** It considers the nature of the offence, the timing and nature of the criminal case, and the judgment of acquittal, aligning with the principle in *Avtar Singh* that the employer can still consider all relevant facts



available as to antecedents and may take appropriate decisions regarding the continuance of the employer.

19. Now coming to the facts of the present case. The respondent got the present job with the petitioner on compassionate ground as a driver. At the time when he filled the CVR form did not disclose the fact as regard to the pendency of a criminal case against him. This non-disclosure has led to an enquiry and ultimately termination from the services for not truthful to the organization at the time when he applied for the job.

20. In addressing the respondent's failure to disclose the pending criminal case, it is evident that the appellant department did not adhere to the guidelines laid down in the *Avtar Singh* judgment. The Hon'ble Supreme Court has also observed that while deciding on non-disclosure, the employer must consider the extent to which the withheld information impacts the nature of the job to be performed by the employee.

21. In the present case, the employee who was a driver, was involved in a family dispute amongst the family members which resulted into a criminal case. The said case was registered due to a property dispute concerning the ancestral property of the respondent. The conflict arose when the respondent's aunt, Smt. Santosh, sold a portion of the said property to a third party. The respondent contested this sale, arguing that the property rightfully belonged to the family and should not have been transferred. The dispute involved multiple family members, including the



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respondent's father, uncle, siblings, and cousins. The issue escalated when the respondent's brother Ram Pal, was implicated in a criminal case related to the property dispute under Sections 448 and 34 of IPC, but the respondent maintained that he was not responsible in any of this.

22. The case was still pending and the result was not known to the employer.

23. The allegations were yet to be proved and specifically when the job of the respondent and the alleged allegations against him will not have a bearing on the performance of his job, therefore, the employer should have kept this in its mind, while taking a decision of terminating him from the job. The allegations against the respondent were yet to be proven. Moreover, since the nature of his job was unrelated to the alleged misconduct, the employer should have considered this factor before deciding to terminate him from the job.

24. We have considered the view taken by the Labour Court as well as by the learned Single Judge and we are in agreement with their observations and decisions. The termination of the respondent by the appellant was not in consonance with the guidelines laid down in *Avtar Singh*. Consequently, we find no merit in the appeal and it deserves to be dismissed.

25. Ms. Manisha Tyagi, who appeared for the DTC, also placed



reliance on the judgment of the Supreme Court in *UOI v Shishu Pal*¹⁴. She sought to submit that the decision in *Shishu Pal* reiterates the principles that the very act of concealment, in the application form submitted by the candidates for appointment to the post of driver in the DTC, of the fact that there was a pending criminal case against him, was sufficient to cancel his candidature. *Shishu Pal* having been rendered chronologically after *Ravindra Kumar*, the contention is that we should follow *Shishu Pal* instead of *Ravindra Kumar*.

26. The question that arises, then, is whether *Shishu Pal* departs from the decision of law enunciated in *Ravindra Kumar*.

27. Para 26 of *Shishu Pal*, which contains its conclusions, itself starts with the clarification that the decision was being rendered in “the aforesaid facts and circumstances of the present case”. As such, the Hon’ble Supreme Court, while rendering *Shishu Pal*, was doing so in the light of the facts and circumstances before it.

28. When one turns to the facts before the Hon’ble Supreme Court in *Shishu Pal*, one finds that the respondent *Shishu Pal* had not only concealed, in the verification form submitted by him for appointment to the post of Constable, the fact that there was a previous criminal case pending against him, but had also been issued a show cause notice in that regard, in respect to which he blatantly denied the existence of any such



criminal case. The Hon'ble Supreme Court has pointedly observed, in ***Shishu Pal***, that the reply given by the respondent to the show cause notice, clearly indicated that the omission to refer to the criminal case pending against him in the verification form was not innocent, but was a deliberate act of concealment and fraud. As against that, in the present case, the only omission, on the part of the respondent, was in not mentioning the fact of pending criminal case against him in the CVR form, filled in by him. No subsequent show cause notice was issued to the respondent, to which any misleading response was given.

29. Besides, the decision in ***Shishu Pal*** has not noticed the earlier decision in ***Ravindra Kumar***. Another Bench of two Hon'ble Judges of the Supreme Court has, in ***Union Territory of Ladakh and Ors v Jammu and Kashmir National Conference and Another***¹⁵, held, following the decision of the Constitution Bench in ***National Insurance Company Limited v Pranay Sethi***, as under:

“35. We are seeing before us judgments and orders by High Courts not deciding cases on the ground that the leading judgment of this Court on this subject is either referred to a larger Bench or a review petition relating thereto is pending. We have also come across examples of High Courts refusing deference to judgments of this Court on the score that a later Coordinate Bench has doubted its correctness. In this regard, we lay down the position in law. We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically directed by this Court, to await an outcome of a reference or a review petition, as the case may be. It is also not open to a High Court to refuse to follow a judgment by stating that it has been doubted by a later Coordinate Bench. In any case, when faced with conflicting



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*judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in **National Insurance Company Limited v Pranay Sethi**¹⁶. The High Courts, of course, will do so with careful regard to the facts and circumstances of the case before it.”*

30. We are unable, therefore, to accept Ms. Tyagi’s contention that the law laid down in **Ravinder Kumar** can no longer be followed, after **Shishu Pal**.

31. Therefore, we uphold the Award passed by the Labour Court by directing the appellant to reinstate the respondent with all consequential benefits alongwith 25% back wages, from the date of termination until his reinstatement within a month from the date of pronouncement of this judgment. Failing this, the appellant shall be liable to pay interest @ 9% per annum from today until realization.

AJAY DIGPAUL, J.

C. HARI SHANKAR, J.

25 March, 2025/an

[Click here to check corrigendum, if any](#)