



2025:DHC:9982-DB



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

+ W.P.(C) 12239/2022

RAHUL

.....Petitioner

Through: Mr. Vipin Rana, Ms. Ritu, Mr.
Vinay Panwar, Mr. Vishu Verma and Ms.
Shivani, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Naginder Benipal, SPC with
Mr. Shivam Chanana, Mr. Ankit Siwach and
Mr. Udit Vaghela, Advs.
Insp Pradeep Kumar and Head Constable
Milan Singh

CORAM:**HON'BLE MR. JUSTICE C.HARI SHANKAR****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA****JUDGMENT(ORAL)**

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06.11.2025**OM PRAKASH SHUKLA, J.**

1. The present writ petition has been instituted under Article 226 of the Constitution of India, wherein the petitioner seeks to quash and set aside the impugned Speaking Order dated 03.09.2021 passed by the Joint Director (Security-ABE), Ministry of Railways. By virtue of the said order, the petitioner's candidature for appointment to the post of Constable (GD) in the Railway Protection Special Force¹, pursuant to advertisement No. 01/2018, came to be cancelled on the ground of alleged suppression of information relating to his involvement in a criminal case. The petitioner further seeks consequential directions

Signature Not Verified¹ "RPSF" hereinafter

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commanding the respondents to appoint him to the said post with all consequential service benefits.

2. The facts leading to the filing of the present petition, as borne out from the record, are that the Central Recruitment Committee, Railway Board, issued advertisement No. 01/2018 on 30.06.2018 inviting applications for 4,216 vacancies of Constable (Male/Female) in the RPSF and RPF. The selection process comprised a Computer Based Test², Physical Efficiency Test³, Physical Measurement Test⁴, Document Verification⁵ and Medical Examination.

3. The petitioner submitted his application pursuant to the said advertisement. Upon qualifying the CBT, the petitioner was called to appear for the PET, PMT and the DV process, where the petitioner was declared successful in all the said stages of selection.

4. On 18.04.2019, FIR No. 125/2019 came to be registered at Police Station Shahpur, Muzaffarnagar, under Sections 147, 148, 149, 323, 307, 504 and 506 of the Indian Penal Code, 1860⁶. The said FIR named nine individuals and eight unnamed persons, including the petitioner.

5. The investigation culminated in a Final Report dated 20.06.2019, whereby the Investigating Officer deleted the earlier graver offences and filed Charge Sheet No. 169/2019 only against four accused persons

² "CBT" hereinafter

³ "PET" hereinafter

⁴ "PMT" hereinafter

⁵ "DV" hereinafter

⁶ "IPC" hereinafter



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under Sections 335, 323, 325, 504 and 506 IPC, dropping the petitioner's name from the array of accused.

6. Thereafter, on 22.06.2019, the respondents published the Selected List of successful candidates for appointment to the post of Constable (GD), wherein the petitioner's name appeared at Serial No. 229. The petitioner was thereafter called for Medical Examination on 22.07.2019, and was declared medically fit. On the same date, the petitioner submitted his Attestation Form, requisite particulars, including information concerning any criminal proceedings, as sought therein.

7. It is not in dispute that the petitioner did not record the FIR details in the Attestation Form, alleging that no charge-sheet had been filed against him.

8. On 20.12.2019, the respondent issued Order No. 2019/Sec(ABE)/RR/3/6 Pt-5, cancelling the petitioner's selection and appointment to the post of Constable (GD) on the ground of non-disclosure in the Attestation Form. The cancellation order records suppression of material information as the basis for rescission of the petitioner's candidature.

9. Aggrieved, the petitioner instituted Writ Petition No. 5255 of 2020 before the High Court at Allahabad, challenging the order dated 20.12.2019. By judgment dated 29.07.2021, the Allahabad High Court set aside the said order dated 20.12.2019 and directed the respondents to pass a fresh order after taking into consideration: (i) the final report

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filed by the investigating officer, and (ii) the principles enunciated by the Supreme Court in *Avtar Singh v. Union of India & Ors.*⁷. The said exercise was directed to be completed within three months.

10. Purportedly, in compliance with the said directions, the respondent authority issued a Speaking Order dated 03.09.2021, wherein it was again held that the petitioner had not disclosed the FIR in his attestation form and was, therefore, unsuitable for appointment.

11. The petitioner maintains that the abovementioned Speaking Order dated 03.09.2021, reiterated the cancellation effected by the earlier order and was issued without due application of mind to the Final Report that had omitted his name from the charge sheet prior to submission of the Attestation Form.

12. It is in the backdrop of the aforesaid developments, that the petitioner has approached this Court by way of the present writ petition.

13. Mr. Vipin Rana, learned Counsel for the petitioner submits that the present writ petition has been instituted assailing the Speaking Order dated 03.09.2021 passed by Respondent No. 4, the Joint Director (Security-ABE), Ministry of Railways, whereby the petitioner's candidature for appointment as Constable (GD) in RPSF was cancelled. The said order was purportedly passed in compliance with the judgment dated 29.07.2021 of the High Court of Judicature at Allahabad in **Writ**



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Petition No. 5255/2020, titled, “*Rahul v. Union of India & Ors.*”, wherein the earlier discharge order dated 20.12.2019 had been quashed.

14. Learned Counsel points out that the Allahabad High Court specifically held that, as a Final Report had already been filed exonerating the petitioner, “*there was no error on the part of the petitioner in not disclosing any case as technically it cannot be said that any case was pending against him.*” The respondents were directed to pass a fresh order after considering the Final Report and the principles laid down by the Supreme Court in *Avtar Singh* (supra).

15. It is submitted that the impugned Speaking Order dated 03.09.2021 demonstrates non-application of mind. Instead of undertaking an independent assessment as mandated by the Allahabad High Court, the respondents merely reproduced earlier facts and mechanically confirmed the previous order of discharge dated 20.12.2019. The impugned action, it is urged, is arbitrary, devoid of reasoning, and violative of the principles of natural justice.

16. The learned Counsel further contends that the petitioner filed his Attestation Form on 23.07.2019, and at that time he had no knowledge of any criminal case registered against him. The petitioner had neither been arrested nor detained; no warrant, summons, or notice had ever been served upon him, nor had he been called for investigation. Consequently, there was nothing for him to disclose in good faith at the time of submission of the form.

17. It is further urged that on the date of submission of the Attestation Form, the petitioner’s name had already been deleted from the Charge

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Sheet No. 169/2019 dated 20.06.2019 in Case Crime No. 0125/2019, and the Investigating Officer had found no material to proceed against him. The criminal case, therefore, had effectively concluded before 23.07.2019, and there was no subsisting proceeding that required disclosure.

18. Learned Counsel draws attention to the Police Verification Report issued from the office of the Senior Superintendent of Police, Muzaffarnagar, transmitted through the District Magistrate, Muzaffarnagar, *vide* Letter No. GVR 1015/19 dated 03.10.2019, which categorically records that upon enquiry “no adverse entry was found in the record of the local police” and that “his character is satisfactory.” The report further notes that FIR No. 125/19 lodged against the applicant was found to be wrong. It is submitted that despite this clean verification, the respondents arbitrarily deprived the petitioner of his legitimate right to appointment.

19. Learned Counsel maintains that the petitioner never suppressed or concealed any material information; the responses in the Attestation Form were made truthfully and to the best of his knowledge. The finding of “suppression” in the impugned order is, therefore, unsustainable.

20. It is also contended that reliance placed by the respondents on the fact that cognizance of the final report was taken by the Judicial Magistrate-II, Muzaffarnagar on 06.11.2019, is misplaced. It is submitted that cognizance is taken of the offence and not of the offender, and since the petitioner was never named in the charge sheet,



such cognizance has no bearing on him. The petitioner had neither any notice nor knowledge of the said FIR, he was never arrested, and never summoned by the police.

21. Learned Counsel submits that the impugned order dated 03.09.2021 has been passed without appreciating the factual and legal circumstances of the case and reflects a mechanical exercise of power. The order suffers from arbitrariness and non-application of mind, thereby vitiating it in law.

22. It is argued that the issue of alleged suppression cannot be decided by applying a rigid formula. As held by the Supreme Court in *Avtar Singh* (supra), each case must be considered on its own facts and circumstances, and the competent authority must exercise discretion with due care and caution. Before a person can be held guilty of *suppressio veri* or *suggestio falsi*, knowledge of the fact must be attributable to him. In the petitioner's case, no such knowledge can be attributed to the petitioner. Reliance is further placed on the decision of Supreme Court in *Pawan Kumar v. Union of India & Another*.⁸

23. *Per Contra*, Mr. Naginder Benipal, learned SPC for the respondents submits that Employment Notice No. 01/2018 was published by the RPF to fill vacancies for the post of Constable (Executive) in various zones of RPF and RPSF, both male and female, through an online selection process. The recruitment was undertaken on a priority basis, and it was decided that provisionally selected



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candidates would be imparted initial training at designated RPF/RPSF training centres, subject to receipt of a satisfactory Police Verification Report.

24. Learned SPC further submits that the Attestation Form contained specific warnings and declarations. The petitioner was clearly cautioned that furnishing false information or suppressing factual information would render him disqualified for government employment, any subsequent failure to disclose such facts would be deemed suppression, and that discovery of such falsehood at any stage of service would render his employment/candidature liable to termination. The petitioner also signed a declaration certifying that the information furnished was correct and acknowledging liability for termination and legal consequences in case of suppression.

25. It was submitted that under Rules 52.1 and 52.2 of the Railway Protection Force Rules, 1987⁹, verification of character and antecedents is mandatory before formal appointment. The Rules mandate that if a recruit is found unsuitable, after verification, he/she shall not be appointed to the Force.

26. Pursuant to this requirement, the petitioner's Attestation Form was sent to the District Magistrate, Muzaffarnagar for verification of character and antecedents. The Police Verification Report dated 03.10.2019 revealed that Case Crime No. 0125/2019 under Sections 147, 148, 149, 307, 323, 504 and 506 IPC had been registered against



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the petitioner at Police Station Shahpur, District Muzaffarnagar (U.P.). Although the report noted that the petitioner was later found to have been falsely implicated, it did not mention the date on which the final report had been accepted by the concerned Court.

27. The learned Counsel submits that the petitioner thus violated paragraph 1 of the Attestation Form, which expressly warns that suppression of any factual information disqualifies a candidate and renders him unfit for government employment. Since the FIR against the petitioner and others was registered on 18.04.2019, i.e., before submission of the Attestation Form on 23.07.2019, the omission to disclose the same constituted deliberate suppression.

28. It has been further submitted that the respondents in compliance with the Allahabad High Court's directions, sought verification from the Police Station Shahpur and the Court of Judicial Magistrate-II, Muzaffarnagar on two specific points: (i) whether the Final Report dated 20.06.2019 had been accepted by the concerned court, and (ii) whether the petitioner had been arrested in connection with FIR No. 125/2019.

29. Learned Counsel submits that as per communication dated 12.08.2021 from the Judicial Magistrate, Muzaffarnagar, the Court had taken cognizance of the charge sheet against other accused persons on 06.11.2019 and accepted the Final Report with respect to the petitioner on that date. Therefore, as on 23.07.2019, when the petitioner submitted the Attestation Form, the Final Report had not yet been accepted by the Court. A further report from Police Station Shahpur dated 10.08.2021 confirmed that while the petitioner was not arrested, the case registered

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under FIR No. 125/2019 was still pending investigation when the form was submitted.

30. On the basis of these findings, it was submitted that the petitioner knowingly furnished false information. Further, the Attestation Form was completed nearly three months before the acceptance of the Final Report, and thus, the case was *sub judice* at that time. The omission to disclose its pendency constituted deliberate suppression aimed at securing government employment.

31. Learned SPC places reliance on paragraph 38.1 of the judgment in *Avtar Singh* (supra), wherein it was held that “*information given to the employer as to conviction, acquittal, arrest, or pendency of a criminal case must be true, and there should be no suppression or false mention.*” Applying the principle laid down therein, it was submitted that the antecedents of the petitioner render him unsuitable for appointment to a disciplined force like the RPSF.

32. It was further contended that in *Jainendra Singh v. State of U.P.*¹⁰, the Supreme Court observed that suppression of information regarding involvement in a criminal case directly reflects upon a candidate’s character and moral integrity, especially when seeking entry into a uniformed service. The standard expected of a person in such service is higher than that of civil employment, and any deliberate misstatement or omission regarding vital information justifies rejection of candidature.



33. Reliance is also placed on *Commissioner of Police v. Sushil Kumar*¹¹, wherein the Supreme Court held that even an acquittal in a criminal case does not automatically entitle a person to appointment in a disciplined force if his antecedents are found unsuitable for such service.

34. Further reliance was placed on the recent decision of the Supreme Court in *Satish Chandra Yadav v. Union of India*¹² and *Pushpendra Kumar Yadav v. Union of India*¹³, wherein the Court reiterated that suppression of facts in the attestation form, particularly concerning criminal antecedents, disentitles a candidate from appointment in a disciplined force.

35. Learned Counsel submitted that in the light of the above judicial precedents, the petitioner's conduct demonstrates conscious suppression of material facts at the time of filling the Attestation Form. The respondents have acted strictly in accordance with the rules governing verification of antecedents and the law laid down by the Supreme Court and thus the learned Counsel contends that the present writ petition is devoid of merit and that the impugned order is reasoned and lawful order passed in compliance with judicial directions, and the petition deserves to be dismissed *in limine*.

ANALYSIS

36. Having considered the rival submissions and perused the material placed on record, this Court finds that the pivotal issue for

¹¹ (1996) 11 SCC 605

¹² Civil Appeal Nos. 6955/2022

¹³ SLP (C) No. 5170/2021



determination in the present case is whether the petitioner, whose candidature was cancelled on the ground of alleged suppression of a criminal case, can be denied appointment to the post of Constable (GD) in the RPSF, even though his name was deleted from the charge sheet prior to submission of the Attestation Form and a Final Report exonerating him had already been accepted by the competent court. The question, therefore, turns upon the correct application of the principles laid down by the Supreme Court in *Avtar Singh* (supra) and *Satish Chandra Yadav* (supra).

37. In *Avtar Singh* (supra), the Supreme Court undertook an exhaustive survey of the law governing suppression of criminal antecedents in verification and Attestation Forms. The three-Judge Bench observed that, while integrity is an indispensable attribute for government service, particularly in disciplined forces, fairness and proportionality must govern the decision of the employer. The Court cautioned against adopting a mechanical approach that treats every omission as suppression, and instead emphasised a context sensitive exercise of discretion. The Supreme Court held as follows:

“22. The employer is given ‘discretion’ to terminate or otherwise to condone the omission. Even otherwise, once employer has the power to take a decision when at the time of filling verification form declarant has already been convicted/acquitted, in such a case, it becomes obvious that all the facts and attending circumstances, including impact of suppression or false information are taken into consideration while adjudging suitability of an incumbent for services in question. In case the employer come to the conclusion that suppression is immaterial and even if facts would have been disclosed would not have affected adversely fitness of an incumbent, for reasons to be recorded, it has power to condone the lapse. However, while doing so employer has to act prudently on due consideration of nature of post and duties to be rendered. For higher officials/higher posts, standard has to be very high and even slightest false information or suppression may by itself render a



person unsuitable for the post. However same standard cannot be applied to each and every post. In concluded criminal cases, it has to be seen what has been suppressed is material fact and would have rendered an incumbent unfit for appointment. An employer would be justified in not appointing or if appointed to terminate services of such incumbent on due consideration of various aspects. Even if disclosure has been made truthfully the employer has the right to consider fitness and while doing so effect of conviction and background facts of case, nature of offence etc. have to be considered. Even if acquittal has been made, employer may consider nature of offence, whether acquittal is honourable or giving benefit of doubt on technical reasons and decline to appoint a person who is unfit or dubious character. In case employer comes to conclusion that conviction or ground of acquittal in criminal case would not affect the fitness for employment incumbent may be appointed or continued in service.”

(Emphasis Supplied)

38. The *ratio decidendi* in the above-mentioned paragraph makes it clear that each case must be examined on its individual facts. The employer cannot act arbitrarily or mechanically but must consider the nature of the offence, the status of the criminal proceedings, and whether the omission was deliberate or *bona fide*.

39. Further, the Supreme Court observed that, “*Suppression of ‘material’ information presupposes that what is suppressed matters; not every technical or trivial matter.*” This enunciation draws a distinction between “material” and “immaterial” suppression. Only the former, i.e., concealment of information that may have direct bearing upon a candidate’s integrity or suitability can justify termination; inadvertent or trivial omissions cannot attract such a consequence.

40. The core principle laid down in *Avatar Singh* (supra), has been dealt with by us in *Srikanta Gorain v Union of India*¹⁴, wherein it was held that:



*“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.”*

41. From the above, it emerges that the exercise of power must be carried out reasonably, with objectivity, and in due regard to the facts in each case.

42. The respondents, however, have placed reliance on **Satish Chandra Yadav** (supra), whereby the Supreme Court upheld termination of candidates in the Central Reserve Police Force who had failed to disclose pending criminal cases. The respondents urge that the same principle applies here since the Final Report had not yet been formally accepted by the Magistrate when the petitioner submitted his Attestation Form.

43. This Court has carefully examined the ratio in **Satish Chandra Yadav** (supra). The said decision indeed reiterates that members of the various uniformed forces are expected to maintain unimpeachable integrity and that suppression of pending criminal cases amounts to lack of candour. However, the decision is distinguishable in light of the fact that it dealt with candidates who had knowingly and consciously withheld disclosure of pending criminal proceedings cases that were very much alive on the date of declaration. Hence, this decision is not applicable in the present case. The reliance placed by the respondents on **Satish Chandra Yadav** (supra) is, therefore, misplaced. That judgment cannot be read as laying down an inflexible rule that any non-



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disclosure, irrespective of intent or factual context, mandates cancellation. Rather, even in *Satish Chandra Yadav* (supra), the Supreme Court reaffirmed the applicability of the *Avtar Singh* (supra) principles that suppression must be deliberate and material to justify such action.

44. By contrast, the factual matrix in the present case is markedly different. The record reveals that the Final Report dated 20.06.2019 had already exonerated the petitioner before he submitted the Attestation Form on 23.07.2019. The Investigating Officer had categorically deleted the petitioner's name from the charge sheet, and no summons, warrant, or notice had ever been issued to him. Thus, at the time of submitting the Attestation Form, there existed no pending criminal case in law against the petitioner.

45. Once a competent Court accepts a Final Report, it can be said that the conclusions therein attain judicial recognition. Accordingly, the exoneration of an accused in such report amounts to the competent court acknowledging/accepting the findings of the said report regarding involvement of such accused person. The respondents' contention that the Final Report was accepted by the Magistrate only on 06.11.2019, does not materially alter this conclusion. The petitioner's exoneration was complete in substance as of 20.06.2019, and the subsequent judicial acknowledgment merely formalised it. In such circumstances, it cannot be said that any case was "pending" within the meaning contemplated in the Attestation Form.



46. Applying these settled principles to the present facts, this Court finds that the petitioner's omission was neither deliberate nor material. The petitioner was not named in the charge sheet, and no criminal proceeding was pending against him when he submitted the Attestation Form. Hence, his declaration cannot be construed as false or misleading or would tantamount to suppression of any material facts.

47. The Speaking Order dated 03.09.2021 suffers from non-application of mind. The authority has merely reiterated earlier findings without examining whether, on the date of submission of the Attestation Form, any pending case actually existed against the petitioner. The impugned order does not reflect any consideration of the exoneration recorded in the Final Report. Further, the said order disregards the principle of proportionality.

48. Upon applying the higher threshold applicable to uniformed forces, as recognised in *Avtar Singh* (supra), the action of the respondents cannot be sustained. Fairness and proportionality are non-derogable principles even in such services, and disqualification of a candidate, who stood exonerated prior to submission of the Attestation Form, would amount to arbitrary exercise of discretion.

49. This Court accordingly holds that **only conscious and deliberate suppression of a pending criminal case by a candidate possessing actual knowledge can justify cancellation of candidature**. Where the omission is *bona fide*, and the proceedings have already concluded in the candidate's favour, the doctrine of proportionality requires that the benefit be extended to such candidate.



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50. In the present case, the petitioner's declaration in the Attestation Form was consistent with the factual position at the time of its submission. The finding of suppression, as recorded by the respondents is, therefore, untenable in law and contrary to the ratio of *Avtar Singh* (supra). Further, the reliance on *Satish Chandra Yadav* (supra) by the respondents is misconceived, as that decision dealt with deliberate concealment of ongoing prosecutions, which is clearly distinguishable from the instant case.

51. For all the aforesaid reasons, the writ petition is allowed.

52. The impugned order is accordingly quashed and set aside. The respondents are directed to reinstate the petitioner's candidature without the FIR No. 125/2019 or the criminal trial acting as an aggravating factor against the petitioner and extend him consequential and attendant benefits, in accordance with law.

53. There shall be no order(s) as to costs.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

NOVEMBER 6, 2025/AR/AT/rjd