

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Prasenjit Biswas

W.P.S.T. 56 of 2025

Narayan Pattendar

Vs.

The State of West Bengal & Ors.

For the Petitioner	: Mr. Ramkrishna Bhattacharyya, Mr. Kaushik Choudhury, Mr. Syed Rizwan.
For the State	: Mr. Tapan Kumar Mukherjee, Ld. AGP, Ms. Sangeeta Roy.
Judgment on	: February 4, 2026.

Madhuresh Prasad, J.:

1. The writ petitioner was the applicant before the West Bengal Administrative Tribunal (Tribunal for short). The Tribunal rejected O.A. No. 911 of 2017 filed by the writ petitioner. The Tribunal's order dated 13.12.2024 is the subject matter of the present writ petition.
2. Heard learned advocate for the writ petitioner and the learned AGP appearing for the State.

3. The issue decided by the West Bengal Administrative Tribunal ("Tribunal" for short), in present proceeding is whether in view of the nature of disclosure made by the writ petitioner in his verification roll submitted at the time of his appointment as a Lower Division Clerk in the Department of Food and Supplies, Government of West Bengal, the authorities were justified in considering him to be unsuitable for the appointment.

4. Clause 13 of the verification roll submitted by the petitioner contains a query in the following terms:

"13. Have you ever been arrested/detained or convicted by a Court of any offence. If the answer is 'YES' the full particulars of the arrest or detention or conviction and the sentence should be given."

5. The petitioner responded to the query by stating "N.A.".

6. It is not in dispute that the petitioner was made an accused in a criminal case lodged for the alleged offence under Section 498A/34 IPC by the brother-in-law of the petitioner's elder brother, against petitioner's elder brother, and the entire family. The FIR dated 11.09.2002 was numbered as Dhantala P.S. case no. 172 of 2002. The petitioner was taken in custody in connection with this case on 18.09.2002 and released on bail on the very next day (19.09.2002).

7. Later, the petitioner participated in the recruitment process for appointment of Lower Division Clerk in the department of Food and Supplies, Government of West Bengal. He emerged successful in the

recruitment process and was required to submit a Police Verification Roll (PVR for short).

8. The petitioner filed an Original Application before the West Bengal Administrative Tribunal (hereinafter referred to as the Tribunal). The Original Application was registered as O.A. No. 751 of 2011. The petitioner raised a grievance that after issuance of an appointment letter dated 04.11.2009, he was not being allowed to discharge his duties nor being paid any emoluments/salary etc. The petitioner sought the following relief:

“10. RELIEF SOUGHT FOR :

In view of the facts mentioned in para 4 above the applicant prays for the following relief(s) :-

- (a) That the respondents authorities be directed to release and/or issue and/or finalize the police verification report of the applicant in respect of the appointment letter dated 4.11.2009 issued by the Joint Director (P) Department of District Distribution, Procurement and Supply, Government of West Bengal in favour of the applicant appointing him Lower Division Clerk under the Department of Food and Supplies, Government of West Bengal forthwith;*
- (b) That the respondents authorities be directed to allow the applicant to perform his duties to the post of Lower Division Clerk under Food and Supplies Department, Government of West Bengal in terms of appointment letter dated 4.11.2009 issued by the Joint Director (P), department of District Distribution, Procurement and Supply and to release the salaries and allowances as admissible to the said post month by month including the arrear salaries;*
- (c) That any other relief or reliefs may be granted to the applicant in view of the facts and circumstances;*
- (d) That the respondents authorities be directed not to take any plea in respect of issuance of P.V.R. (Police Verification Report) to the applicant that the name of the applicant was recorded in a F.I.R. in Dhantala Police*

Station Case No. 172 of 2002 under section 498A/34 of the Indian Penal Code and/or pendency of criminal case before the Sub-Divisional Judicial Magistrate, Ranaghat, Nadia;”

9. The Original Application 751 of 2011 was disposed of by the SAT by its order dated 18.07.2012 in the following terms:

“The petitioner has disclosed in the body of the application that he has been implicated in a criminal case started under-section 498A of the IPC and he apprehends that in view of pendency of that criminal case, he may not be declared suitable for Government job. Petitioner has, therefore, prayed for a direction upon the appointment authority to ignore the impact of the pending criminal case and to issue him appointment letter.

Ms. Agarwal on instruction submits that if a criminal case has been pending against the petitioner till he is acquitted of that criminal case, he may not be considered suitable for Government job.

On hearing both Mr. Bhattacharyya and Ms. Agarwal, we find that the issue involved in this application has already been answered by the Hon’ble Supreme Court of India in the case of State of West Bengal –Vs- Sk. Nazrul Islam reported in 2011(10) SCC page 184.

From the reported decision, we find that similar question was raised before their Lordships of the Hon’ble Supreme Court of India whether a person provisionally selected can be given appointment, if a criminal case is pending against him and their Lordships answered that in such case, no order can be given upon the State Government for issuance of appointment letter, so long the criminal case is pending and the incumbent has been acquitted of that criminal case. Following the said decision of the Hon’ble Supreme Court of India, we dispose of this application with the observation that petitioner’s claim for appointment would arise if he is acquitted from the criminal case.

The application is accordingly disposed of.

Plain copy to both the sides.”

10. Thereafter, the petitioner was acquitted by the Criminal Court.

The writ petitioner thus filed another Original Application bearing O.A.

No. 911 of 2017 seeking a relief that the authorities be directed to consider the petitioner's claim for appointment taking into account that the applicant was acquitted from the criminal case; and to allow him to join the post of Lower Division Clerk under the Department of Food and Supplies forthwith.

11. The Tribunal disposed of the Original Application O.A. No. 911 of 2017 by an order dated 13.12.2024, which is the subject matter of the present writ petition. The Tribunal was of the view that despite his acquittal in the criminal case, the issue regarding suppression of the fact of his arrest in connection with a criminal case remains to be a hurdle in the way of the petitioner's appointment. Suppression of such an important fact gives an impression that the petitioner has acted with lack of *bona fide* and honesty. Such suppression of fact is not expected from an employee.

12. The learned advocate for the writ petitioner submits that the Tribunal failed to consider that the answer given to the query no. 13 in the verification roll was a mistake. There is no wilful and deliberate suppression or falsity resorted to by the writ petitioner. The fact that the petitioner acted with *bona fide* is apparent from a bare perusal of averments made by the petitioner in O.A. No. 751 of 2011, and the second Original Application out of which the present writ petition arises. In both Original Applications the petitioner annexed a true photocopy of the verification roll containing the mistaken response to the query no. 13 of the PVR. He, therefore, submits that there is no

scope for considering that the response to query no. 13 is lacking in *bona fide* or a deliberate attempt to mislead or misrepresent the fact. He further submits that the order dated 18.07.2012 passed by the Tribunal on the petitioner's earlier O.A. No. 751 of 2011 was not put to challenge by the respondent authorities. Therefore, in view of his acquittal the authorities cannot deny the petitioner's claim for appointment.

13. The learned advocate for the petitioner has referred to decision of the Apex Court in the case of **Pawan Kumar Vs. Union of India & Anr.** reported in **(2023) 12 SCC 317** to submit that the nature of allegations pending in the criminal proceeding were trivial. The petitioner was made accused in a false case lodged by his elder brother's brother-in-law for the offences under Section 498A/34 IPC. Criminal liability in connection with the case, if at all, would arise against his elder brother, and the petitioner has no connection with the case. In view of the trivial nature of allegations, the petitioner cannot be deprived of the benefit of the recruitment process. The falsity of the implication is also apparent from the fact that the petitioner was acquitted in the criminal trial.

14. The learned AGP on the other hand submits that the Tribunal has rightly rejected the petitioner's Original Application. The fact that the petitioner acquitted in the criminal trial does not in any way diminish the consequence of a false statement made in the PVR form submitted by the petitioner, regarding the issue of his arrest. He refers

to paragraph 69 of the neutral citation of a judgment of the Apex Court in the case of **Satish Chandra Yadav Vs. Union of India & Ors.** reported in **(2023) 7 SCC 536**. Paragraph 93/ 69 of neutral citation, was relied upon, wherein the Apex Court has shortlisted the broad principles of law applicable to litigation of the present nature which reads:

“93. In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:

93.1. Each case should be scrutinised thoroughly by the public employer concerned, through its designated officials — more so, in the case of recruitment for the Police Force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security. (See Raj Kumar [State v. Raj Kumar, (2021) 8 SCC 347 : (2021) 2 SCC (L&S) 745])

93.2. Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for appointment to the post.

93.3. The suppression of material information and making a false statement in the verification form relating to arrest, prosecution, conviction, etc. has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.

93.4. The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided.

93.5. The Court should inquire whether the authority concerned whose action is being challenged acted mala fide.

93.6. Is there any element of bias in the decision of the authority?

93.7. Whether the procedure of inquiry adopted by the authority concerned was fair and reasonable?"

15. The learned AGP laid emphasis on para 93.3 to submit that making of statement in the PVR form, relating to arrest has a clear bearing on the character, conduct and antecedents of the employee. Such being the settled legal position there is no scope for any leniency being shown to the petitioner. He further submits that the petitioner cannot get any relief in the present proceedings since he chose not to challenge the letter dated 22.07.2016 written by the Deputy Secretary to the Government of West Bengal in the Home Department Internal Security Branch address to the Special Superintendent of Police on the subject. By this communication the State Government communicated its view regarding the petitioner being unsuitable for appointment. Since the petitioner has not assailed this communication there is no scope for the petitioner to claim any relief in respect of his appointment.

16. We have gone through the records and impugned order of the Tribunal dated 13.12.2024. We have also considered the submission advanced on behalf of the parties. Based on the above noted undisputed facts we find that when no action was being taken on the

PVR form submitted by the petitioner due to pendency of Dhantala P.S. case no. 172 of 2002, wherein petitioner was an accused, the petitioner filed first Original Application (OA 751 of 2011). The petitioner had annexed the PVR form in the OA. From reading of prayer (d) in the OA, extracted above we find that the writ petitioner disclosed the factum of implication in the criminal case. The OA was heard and disposed of by the Tribunal in terms of the stand of the State Government, recording the stand of the learned Advocate, representing the State, quoted above.

17. Taking note of such stand of the State and the legal position in this regard relying on judgment of the Apex Court in the case of ***State of West Bengal and Others vs. SK. Nazrul Islam*** reported in **(2011) 10 SCC 184**. The Tribunal disposed of the original application observing that the petitioner's claim for appointment would arise if he is acquitted from the criminal case. The order of the Tribunal is after recording the above quoted submissions of the State Advocate in the order dated 18.07.2012. It would further be relevant to note that the stand of the State was communicated through the State Advocate after going through the averments made in the original application wherein there was disclosure regarding pendency of the criminal case against the petitioner. The verification form submitted by the petitioner was also annexed with the O.A.

18. We, therefore, find that a well-considered stand of the State Government, after due consideration of the above noted facts was the

basis of disposal of the petitioner's first O.A. with a clear observation of the Tribunal that the petitioner's claim for appointment would arise if he were acquitted from the criminal case. The decision in this regard was final and binding *inter partes* since neither the writ petitioner nor the State took any steps to modify, review or assail the Tribunal's order dated 18.07.2012 passed in O.A. No. 751 of 2011. Since the decision of the Tribunal is founded on due consideration of the disclosure made by the petitioner in response to question 13 of the verification form, as also pendency of the criminal case against him, there is no scope for reopening these issues in any later proceedings. The issue therefore, was finally settled by decision of the Tribunal regarding petitioner's claim for appointment, being contingent upon acquittal from the criminal case.

19. Thus, if the criminal case resulted in petitioner's conviction, as per decision of the Tribunal petitioner's claim for appointment would not arise. In case of acquittal, however, as per the Tribunal's decision in O.A. No. 751 of 2011, the petitioner would be suitable for the appointment in question.

20. It is not in dispute that the petitioner was acquitted from the charge on 14.08.2014. The fact of acquittal was duly communicated to the respondents on 17.09.2014. Upon such communication being received by the authorities, there was no scope for the authorities, but to proceed to consider the petitioner suitable for the appointment, subject to fulfilment of other requisite criteria. All other options were

closed by the Tribunal's order dated 18.07.2012 in O.A. No. 751 of 2011.

21. When no action was being taken the writ petitioner filed a writ petition before this Court, bearing WP No. 29605 (W) of 2016. The State respondents filed a report in the writ proceedings. The report was dated 17.01.2017, under the signature of the Deputy Superintendent of Police, IB, WB. The report records that the petitioner is acquitted from the criminal case. However, the State Government which found the petitioner "UNSUITABLE" for the post by an order dated 12.07.2016.

22. This report was put to challenge by the petitioner by filing another writ petition. The writ petition was numbered as WP 5953(W) of 2017. The writ petition was disposed of by an order dated 09.03.2017 giving liberty to the petitioner to assail the decision dated 22.07.2016 before the Tribunal.

23. The second O.A. No. 911 of 2017 was thus filed by the writ petitioner, wherein the impugned order was passed.

24. It is a specific case of the applicant in paragraph 6(xx), (xxiv) of the OA filed before the Tribunal that copy of the Government Order dated 22.07.2016 was not handed over to the applicant along with the statement dated 17.01.2017. The learned Advocate for the petitioner, however, points out that from bare reading of the relief sought for, in paragraph 10 of the Original Application it is obvious that the

Government order dated 12.07.2016 was challenged before the Tribunal. The order dated 22.07.2016 issued by the Deputy Inspector General of Police was addressed to the Joint Director of the Department of Food and Supplies. The same is mere intimation regarding the decision dated 12.07.2016 taken by the Government in respect of the petitioner's claim which decision was assailed in the Original Application. The objection raised by the learned AGP regarding the letter dated 12.07.2016 not being challenged, therefore, is devoid of any substance.

25. We are inclined to accept such submission of the learned Counsel for the writ petitioner a bare reading of the letter dated 22.07.2016 reveals that the same is not an independent decision, but a mere intimation of the decision dated 12.07.2016, which the writ petitioner challenged in the OA filed before the Tribunal. Decision of the Government dated 12.07.2016 reads:

"In undersigned is directed to refer to your Memo No. 323/P.F.912-2010/VR dated 20.01.2016 and Memo No. 3211/P.F.912-2010/VR dated 03.06.2016 on the above mentioned subject and to state that the Government considers Shri Narayan Pattendar UNSUITABLE for employment to the post of lower Division Clerk under the Department of Food & Supplies, Government of West Bengal."

26. Without raising any objection in this regard, the respondents appeared in the proceeding before the Tribunal. It is not pointed out by the learned AGP as to how the State was deprived, if at all, in properly defending the case made out by the writ petitioner/applicant in absence of specific challenge to the communication dated

22.07.2016. The letter dated 22.07.2016, as noticed above was not an independent decision containing determination regarding the petitioner's claim/rights. We find that the order dated 12.07.2016, was the base order determining the petitioner's claim. If the same is held to be unsustainable, then a consequence thereof nothing will remain in the letter dated 22.07.2016. We therefore, find no substance in the issue raised by the learned AGP, which in the above facts and circumstance is nothing more than raising a technical issue, which is of no consequences.

27. The learned AGP attempted to sustain the cryptic order dated 22.07.2016 by raking up an issue regarding disclosures made by the writ petitioner in his verification form which were lacking in *bona fide* and which is not truthful. The issue regarding disclosures made in the PVR form, however, as noted above, stood concluded by the earlier decision of the Tribunal dated 18.07.2012 in O.A. No. 751 of 2011. This decision put to rest the issue regarding the disclosures made by the petitioners in the verification form vis-à-vis the pendency of the criminal case; and the petitioner's claim to appointment during pendency of the criminal case.

28. The State accepted the decision dated 18.07.2012 of the Tribunal passed in O.A. 751 of 2011. The judgments of the Apex Court in the case of **Satish Chandra Yadav** (*supra*), relied upon by the learned AGP, undoubtedly state propositions of law which are undeniable and binding on this Court. The judgments, however, are in

relation to the issue regarding disclosures made, misrepresented or suppressed by an applicant in the application/ verification form submitted by him at the time of his appointment. That issue does not arise for consideration in the present proceeding, since the same attained finality by earlier decision of the Tribunal dated 18.07.2012 passed in O.A. No. 751 of 2011. Thus, there is no scope now for the State to make submissions with respect to the disclosures made by the petitioner in the verification form that also by relying on a subsequent decision of the apex court. The attempt of the learned AGP to reopen this issue now cannot be countenanced.

29. The order of the Tribunal dated 18.07.2012 passed on petitioner's earlier O.A. No. 751 of 2011 was rendered taking into consideration judgment of the Apex Court in the case of **SK. Nazrul Islam** (Supra) and after recording the above quoted stand of the State Government, communicated to the court upon instructions.

30. It is settled law by decision of the Apex Court in the case of **Pradeep Kumar Maskara and Others Vs. State of West Bengal and Others** reported in **(2015) 2 SCC 653** that when a judgment has attained finality *inter partes* then the same cannot be ignored. The Apex Court in the said judgment was of the view:

“24. At the very outset, we are of the view that the Tribunal has no jurisdiction to differ with the decision given by the Calcutta High Court in the writ petition filed by the appellants. The Tribunal further committed grave error in following the decision in Ganga Dhar Singh case [Ganga Dhar Singh v. State of W.B., (1997) 2 CHN 140] treating it to

be a Division Bench judgment of the Calcutta High Court when as a matter of fact the decision in Ganga Dhar Singh case [Ganga Dhar Singh v. State of W.B., (1997) 2 CHN 140] was decided by a Single Judge of the High Court. Even the judgment passed [Pradip Kumar Maskara v. State of W.B., Civil Revision No. 3465 (W) of 1984, decided on 8-11-1992 (Cal)] in the appellant's writ petition filed in 1984 was neither considered nor distinguished.

25. *In the background of these facts, in our considered opinion, when the judgment rendered by the Calcutta High Court in the case of the appellants and the said decision having not been quashed or set aside by a larger Bench of the High Court or by this Court, the Tribunal ought not to have refused to follow the order of the High Court.*

26. *It is well settled that even if the decision on a question of law has been reversed or modified by subsequent decision of a superior court in any other case it shall not be a ground for review of such judgment merely because a subsequent judgment of the Single Judge has taken contrary view. That does not confer jurisdiction upon the Tribunal to ignore the judgment and direction of the High Court given in the case of the appellants."*

31. Therefore, in terms of the order dated 18.07.2012 passed in O.A. No. 751 of 2011 since the petitioner was acquitted in the criminal proceedings, the State was required to consider his claim for appointment. If there was no other shortcoming or hurdle in the way of his appointment then the authorities were required to proceed with the petitioner's appointment. Instead, they have by a cryptic order held the petitioner to be unsuitable.

32. From bare perusal of the decision dated 12.07.2016 and the report dated 17.01.2017 submitted by the DSP, we find that the petitioner has been held to be unsuitable by the Government, without assigning any reasons whatsoever. The decision dated 12.07.2016 is an order bereft of any reasons in support of the decision. The order

visits the petitioner with civil consequences, depriving him of his employment. An order having such severe civil consequences cannot be sustained unless it is preceded by compliance with natural justice and supported by reasons justifying the decision. The order dated 22.07.2016 is a cryptic order. The order smacks of arbitrariness. It is by now a settled proposition that an arbitrary action amounts to a violation of Article 14 of the Constitution of India. The order dated 12.07.2016 is thus fit to be set aside.

33. We are not impressed by the reasons assigned in the present proceeding in support of the order dated 22.07.2016 also for the reason that whatever is being canvased in this proceeding was neither considered nor forms the basis of the order dated 12.07.2016. There are no such reasons stated therein. The order dated 12.07.2016, therefore, in view of the settled legal position from decision of the Apex Court in the case of ***Mohinder Singh Gill and Another vs. Chief Election Commissioner, New Delhi and Others*** reported in **(1978) 1 SCC 405** has to be considered and judged by the reasons mentioned, or as in the present case taking into consideration absence of any reasons in the order. The order cannot be supplemented by fresh reasons in the shape of affidavit or otherwise so as to make good an order, which from its inception is bad for non-assigning of any reasons in support of the conclusion.

34. We find that the Tribunal has misdirected itself in rejecting the petitioner's claim by the impugned order dated 13.12.2024 passed in

O.A. No. 911 of 2017 by reopening a settled issue regarding disclosures made in the verification form.

35. The order dated 12.07.2016, for the above reasons is unsustainable and is hereby quashed. As a consequence of quashing of the order dated 12.07.2016, the letter dated 22.07.2016 communicating the government decision dated 12.07.2016 is of no consequence, unsustainable and does not stand in the way of petitioner's consideration. The authorities are directed to proceed with the petitioner's appointment and to process the same in terms of the order dated 18.07.2012 passed in OA No.751 of 2011, subject to verification of other requisite parameters such as medical, certificate verification etc.

36. The order of the Tribunal dated 13.12.2024 passed in OA No. 911 of 2017 is hereby quashed. The writ petition is allowed in the above terms.

37. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)