



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3509 OF 2025

Pawan s/o Vitthal Rathod

Petitioner

Aged about 30 years, Occ. Nil
R/o. Plot No.13/A, Pragati Nagar,
Behind Lokmanya Tilak Statue, Taluka
Pusad, District Yavatmal.

...VERSUS...

1. The Registrar (Administration)

.Respondents

Hon'ble Bombay High Court, Nagpur, Padmashri
Mohammed Rafi Chowk, Near Ravi, Civil
Lines, Nagpur (Maharashtra).

2. State of Maharashtra,

Through Secretary, Law and Judiciary
Department, 5th floor, Main Building,
Hutatma Chowk, Madam Cama Road,
Mantralaya, Mumbai-400032.

Amended as per
Hon'ble Court's
order dated
08.07.2025

Mr. A. M. Sudame, Advocate for Petitioner.

Mrs.(Dr) Renuka S. Sirpurkar, Advocate for respondent no.1.

Mr. H. D. Marathe, Assistant Government Pleader for respondent no.2/State.

CORAM : ANIL S. KILOR AND RAJ D. WAKODE, JJ.

DATE : 04th MAY, 2026.

JUDGMENT (PER : ANIL S. KILOR, J.):-

1. **RULE.** Rule made returnable forthwith and heard finally
with the consent of the learned counsel appearing for the parties.

2. During the probation period of the petitioner as a 'Staff Car
Driver' on the establishment of the High Court of Judicature at Bombay,

Nagpur Bench, his services came to be discontinued/terminated vide order dated 16.06.2025 by the respondent no.1, on the ground of suppression of material information regarding the pendency of a criminal case, while entering into service. The said order dated 16.06.2025 is under challenge in this petition.

3. The brief facts for deciding the challenge raised in the petition are as under:

The petitioner applied for the post of 'Staff Car Driver' pursuant to the advertisement issued by the respondent no.1 on 18.06.2024, wherein he was selected and then appointed on 21.10.2024. On finding that the petitioner had suppressed the fact of pendency of the criminal case, he was served with show cause notice on 19.05.2025 to which he replied on 30.05.2025. Thereafter, considering the reply filed by the petitioner, he was removed on the ground of suppression of material information regarding pendency of criminal case against him.

4. We have heard the learned counsel for the respective parties.

5. Shri A. M. Sudame, the learned counsel appearing for the petitioner argues that on the date of submission of application or on the date of filling-up of form for verification of character and antecedents or on the date issuance of appointment order, the petitioner was not aware about the registration of First Information Report(FIR) vide Crime

No.349 of 2024. Such knowledge was gained by the petitioner for the first time when he received summons on 24.02.2025. It is, therefore, submitted that even, for a moment, it is presumed that the petitioner had suppressed such fact, the question that arises for consideration is whether such suppression, by itself, is sufficient to justify the termination of the petitioner for the reason that it is settled law that the offence needs to be considered in relation to the nature of the post for which such appointment was made. For this purpose, the learned counsel placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of *Avtar Singh vs. Union of India and others* reported in **[(2016) 8 SCC 471]**, *Commissioner of Police vs Sandeep Kumar* reported in **[(2011) 4 SCC 644]** and *Buddheshwar vs. Mah. State Electricity Distribution Company* **[2023 SCC Online Bom 963]**

6. On the other hand, Mrs R.S.Sirpurkar, the learned counsel appearing for the respondent no.1 submits that the petitioner was aware about the pendency of the criminal case. He was served with the notice under Section 41 A of the Code of Criminal Procedure on 28.05.2024, that is the date on which the FIR was lodged. It is submitted that the notice bears acknowledgment of receipt, signed by the petitioner.

7. It is further submitted that a decree of divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955 was granted on 05.09.2024; whereas, attestation form was submitted by the

petitioner in the month of October, 2024, subsequent to the said decree of divorce. It is, therefore, submitted that the petitioner intentionally suppressed the fact about the pendency of criminal case against him. Thus, the petitioner was rightly dismissed.

8. Having heard the learned counsel for the respective parties and gone through the record, it is evident that in the advertisement issued by the respondent no.1 for the post of 'Staff Car Driver', there was a specific Clause 17 which mandates disclosure of information in respect of any criminal proceedings held or pending against a candidate or is he convicted by the Criminal Court or held guilty. It further discloses the consequence of suppression of any such fact. The consequence is discontinuation from the service.

9. In the present case, there is no dispute that the criminal proceeding against the petitioner was pending vide Crime No.349 of 2024 registered with Police Station, Pusad (City), District Yavatmal, for the offence punishable under Sections, 324, 294, 504, 506 and 34 of the Indian Penal Code, on the date the petitioner made application. From the information supplied by the Superintendent of Police, Yavatmal, vide letter dated 30.04.2025, it is evident that on 28.05.2024 the petitioner got information about the registration of such offence. The intimation letter issued under Section 41 (A) (1) of Cr P C issued in the name of the

petitioner, bears his signature at the bottom of the same.

10. Admittedly, the petitioner submitted his application form for the post of 'Staff Car Driver' on 01.07.2024. In the said form in column relating to pendency of criminal proceedings or any conviction, the remarks put by the petitioner is 'no'. Thus, it appears that though the petitioner received information about the registration of the FIR on 28.05.2024, it was not disclosed by him in the application form submitted by him for the post of 'Staff Car Driver' on 01.07.2024.

11. It is to be noted that the offence was registered out of matrimonial dispute and a decree of divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, was passed on 05.09.2024. One of the conditions for such decree of divorce by mutual consent was, to withdraw the cases filed by both the parties against each other. This shows that, the petitioner had knowledge about pendency of such criminal proceedings.

12. Moreover, it is further to be noted that the complainant, who lodged the FIR against the petitioner, was the brother of his wife. On 27.05.2025 the complainant Vivek Madhukar Chavhan filed an affidavit for discharge of the petitioner from the said criminal case. In the affidavit, he has categorically stated that the reason for submitting

such affidavit is, the compromise arrived between the petitioner and his wife.

13. All the above mentioned facts take us to the one conclusion that the petitioner had complete knowledge about the registration of such offence and pendency of the same at the time of filing/submission of his application for the post of 'Staff Car Driver'.

14. In the case of *Commissioner of Police vs Sandeep Kumar* reported in *[(2011) 4 SCC 644]*, more particularly paragraphs 8, 10 and 12, which read thus:

8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

*10. We may also here refer to the case of Welsh students mentioned by a Lord Denning in his book *Due Process of Law*. It appears that some students of Wales were very enthusiastic about the Welsh language and they were upset because the radio programmes were being broadcast in the English language and not in Welsh. They came up to London and invaded the High Court. They were found guilty of contempt of court and sentenced to prison for three months*

by the High Court Judge. They filed an appeal before the Court of Appeals. Allowing the appeal, Lord Denning observed:

"I come now to Mr Watkin Powell's third point. He says that the sentences were excessive. I do not think they were excessive, at the time they were given and in the circumstances then existing. Here was a deliberate interference with the course of justice in a case which was no concern of theirs. It was necessary for the Judge to show and to show to all students everywhere that this kind of thing cannot be tolerated. Let students demonstrate, if they please, for the causes in which they believe. Let them make their protests as they will. But they must do it by lawful means and not by unlawful. If they strike at the course of justice in this land and I speak both for England and Wales they strike at the roots of society itself, and they bring down that which protects them. It is only by the maintenance of law and order that they are privileged to be students and to study and live in peace. So let them support the law and not strike it down.

But now what is to be done? The law has been vindicated by the sentences which the Judge passed on Wednesday of last week. He has shown that law and order must be maintained, and will be maintained. But on this appeal, things are changed. These students here no longer defy the law. They have appealed to this Court and shown respect for it. They have already served a week in prison. I do not think it necessary to keep them inside it any longer. These young people are no ordinary criminals. There is no violence, dishonesty or vice in them. On the contrary, there was much that we should applaud. They wish to do all f they can to preserve the Welsh language. Well may they be proud of it. It is the language of the bards of the poets and the singers-more melodious by far than our rough English tongue. On high authority, it should be equal in Wales with English. They have done wrong-very wrong-in going to the extreme they did. But, that having been shown, I think we can, and should, show mercy on them. We should permit them to go back to their studies, to their parents and

continue the good course which they have so wrongly disturbed." (Vide Morris v. Crown Office', QB at p. 125C-H.)

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

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.

15. Similarly, the reliance placed by the petitioner on the observations of the Hon'ble Supreme Court of India in the case *Avtar Singh vs. Union of India and others* reported in **[(2016) 8 SCC 471]**, referred supra, more particularly para 38 , which reads thus :

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

16. Further, the Hon'ble Supreme Court of India in the case of *Buddheshwar vs. Mah. State Electricity Distribution Company [2023 SCC Online Bom 963]*, more particularly in paras 19 and 30, which read thus:

19. We are of the considered view, that the observations in paragraph 32 extracted supra, cannot be read or understood as laying down as an absolute proposition that the employer has no option but to terminate the employment, if the employee suppressed the pendency of a singular criminal prosecution. The decision will have to be taken by the employer on relevant considerations which we are not inclined to place in a straitjacket. Suppression by an aspirant to uniformed service or disciplined force or to higher post may conceivably stand on a different pedestal than a suppression by a Class IV employee, who is aspirant for a post which is not per se sensitive. The fact that the petitioner was appointed as Peon on compassionate ground could be one relevant consideration. The nature of accusation in the pending trial may fall for consideration in an appropriate case.

30. In our considered view, there do exist certain special circumstances which could have been considered by the employer while deciding to terminate the employment. We would consciously refrain from making further observations in view of the order which we propose to make, which is directing the employer to reconsider the issue afresh consistent with the observations of the Hon'ble Supreme Court in Avtar Singh which we have analyzed supra.

17. The Hon'ble Supreme Court of India in the case of *Satish Chandra Yadav vs. Union of India and others* reported at [(2023) 7 SCC 536] has held as under :

"85. In Pawan Kumar v. Union of India", a case was registered against the appellant for the offences punishable under Sections 148, 149, 323, 356 and 506, respectively, of the IPC. The appellant was honourably acquitted. However, the fact of the said criminal prosecution was not disclosed in the attestation form filled by the petitioner. On such ground, the appellant was discharged from service. The High Court upheld the discharge. While allowing the

appeal, this Court held as follows:

“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. What has been noticed by this Court is that mere suppression of material/false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.

86. In Rajasthan Rajya Vidyut Prasaran Nigam Ltd. v. Anil Kanwariya, this Court gave altogether a different dimension to the issue in question. In the said case, the respondent had applied for the post of Technical Helper on the establishment of the appellant Nigam. The respondent was appointed as a Technical Helper on probation for a period of two years w.e.f. 6-5-2015. The appointment of the respondent was subjected to the production of a character certificate/verification report to be issued by the Superintendent of Police of the native district of the respondent. The Superintendent, Sawai Madhopur vide his report dated 5-6-2015 informed the appellant that a criminal case bearing No. 13 of 2011 for the offences punishable under Sections 143, 341 and 323, respectively, of the IPC was registered against the respondent and the respondent came to be convicted vide the judgment and order dated 5-8-2013 passed by the trial court. The report of Superintendent of Police further stated that the respondent was given the benefit under the Probation of Offenders Act, 1958. In other words, although the

respondent stood convicted for the alleged offence yet the trial court thought fit to release him on probation. This fact was suppressed by the respondent at the time of his appointment. In such circumstances, action was taken and ultimately the respondent's services came to be terminated. The respondent challenged the order of termination in the High Court.

87. The learned Single Judge of the High Court set aside the order of termination and directed the appellant to reinstate the respondent. The appellant Nigam preferred an intra-court appeal before the Division Bench. The appeal came to be dismissed. The appellant Nigam ultimately came to this Court and challenged the orders passed by the High Court. This Court while allowing the appeal filed by the Nigam held in para 14 as under: (Anil Kanwariya case, d SCC p. 152)

"14. The issue/question may be considered from another angle, from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment i.e. while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed

hereinabove in a catena of decisions such an employee cannot claim the appointment and/or continue to be in service as a matter of right."

90. The appellant in Mohd. Imran case lost before the High Court of Bombay. This Court while allowing his appeal observed as under: (Mohd. Imran case SCC pp. 698-99, paras 5-11)

"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 self-improvement. 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.

6. That the expression "moral turpitude" is not capable of precise definition was considered in Pawan Kumar v. State of Haryana opining: (SCC p. 21, para 12)

12. "Moral turpitude" is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity."

7. The appellant by dint of hard academic labour was successful at the competitive examination held on 16-8-2009 and after viva voce was selected and recommended for appointment by the Maharashtra Public Service Commission on 14-10-2009. In his attestation form, he had duly disclosed his prosecution and acquittal. Mere disclosure in an appropriate case may not be sufficient to hold for

suitability in employment. Nonetheless the nature of allegations and the conduct in the facts of a case would certainly be a relevant factor. While others so recommended came to be appointed, the selection of the appellant was annulled on 4-6-2010 in view of the character verification report of the police.

8. It is an undisputed fact that one Shri Sudhir Gulabrao Barde, who had been acquitted on 24-11-2009 in Case No. 3022 of 2007 under Sections 294, 504 and 34 IPC, has been appointed. We are not convinced, that in the facts and circumstances of the present case, the appellant could be discriminated and denied appointment arbitrarily when both the appointments were in judicial service, by the same selection procedure, of persons who faced criminal prosecutions and were acquitted. The distinction sought to be drawn by the respondents, that the former was not involved in a case of moral turpitude does not leave us convinced.

91. Thus, this Court in Mohd. Imran case took the view that although employment opportunity is a scarce commodity in the present times being circumscribed within limited vacancies yet by itself may not suffice to invoke sympathy for grant of relief where the credentials of a candidate may raise any question regarding his suitability, irrespective of eligibility. However, at the same time, this Court observed that there should not be any mechanical or rhetorical incantation of moral turpitude to deny appointment in a government service simpliciter which would depend on the facts of each case. The judicial philosophy flowing through the mind of the Judges is that every individual deserves an opportunity to improve, learn from the past and move ahead in life for self-improvement. To make past conduct, irrespective of all considerations, may not always constitute justice. It would all depend on the fact situation of the given case.

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93.1 to 93.2 ...

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.”

18. From the above referred findings/observations of the Hon'ble Supreme Court, it is evident that it is well within the prerogative, discretion and domain of the employer to determine whether to retain or dismiss such an employee who has suppressed the facts about pendency of criminal case or conviction or acquittal or arrest. It is a question of credibility and trustworthiness of such an employee who at the initial stage of the employment i.e. while submitting declaration and/or verification not disclosing and/or suppressing material facts of having involved in criminal case. Where employer feels that the employee at the initial stage itself has made false submission and /or not disclosed material facts and / or suppressed the material information, he cannot be continued in service because an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee.

19. Similarly, where the credentials of the candidate may raise

serious question relating to his suitability, irrespective of eligibility, the employer may, in its discretion, decide to discontinue such an employee. Nonetheless, the nature of allegation and conduct in the facts of a case, would certainly be a relevant factor. The decision will have to be taken by considering the relevant factor and there cannot be any straitjacket formula for the same.

20. By applying the said principles, we are of the considered view that considering the nature of work the petitioner has to perform duty as a 'Staff Car Driver' at the High Court, if the respondent no.1 has, after considering the relevant factors as laid down in the above referred judgments, reached to the conclusion that the petitioner is not fit to continue as he had suppressed pendency of criminal case which raises a serious question regarding suitability irrespective of his eligibility, we do not want to interfere with discretion exercised by the respondent no.1.

21. In that view of the matter, we do not find any merit in the present writ petition and accordingly it is dismissed.

Pending application, if any, stands disposed of.

22. Rule stands discharged. No order as to costs.

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)

Andurkar..