

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) . 18800/2017
(ARISING FROM SLP(C) No.24320/2014)

VIKRAM SINGH

APPELLANT (S)

VERSUS

THE COMMISSIONER OF POLICE

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. The appellant is before this Court, aggrieved by the cancellation of candidature for selection for appointment as a constable under the respondent. It is on the ground that the appellant had suppressed some information regarding involvement in the criminal cases.

3. The law on the said issue has been laid down by this Court in Avtar Singh v. Union of India and Others, reported in (2016) 8 SCC 471, which reads as follows:-

"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 recourse 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."

4. Though the learned counsel appearing for the appellant made strenuous submissions to contend for

the position that the lapses, if any, are only to be condoned since everything occurred prior to the filing of the application and the appellant had already been acquitted also even before filing of the application. As rightly pointed by Ms. Kiran Suri, learned senior counsel, appearing for the respondent, if at all anything is to be done it can only be on consideration by the respondent of all the relevant aspects, in the light of the judgment referred to above.

5. Accordingly, this appeal is disposed of as follows:-

The appellant is permitted to file a detailed representation before the respondent, within a period of one month from today. In the event of filing of such a representation, the respondent will consider the same in the light of the judgment referred to above and pass a reasoned order after affording an opportunity of hearing to the appellant, within a period of four months thereafter.

We make it clear that the judgment of the High Court shall not stand in the way of the respondent/Commissioner of Police passing orders, as above.

6. Pending applications, if any, shall stand disposed of.

7. There shall be no orders as to costs.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

NEW DELHI;
NOVEMBER 15, 2017.