REPORTABLE

2024 INSC 550

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7933 OF 2024
ARISING OUT OF
PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 25631 of 2019

UNION OF INDIA AND OTHERS .....APPELLANTS

Versus

SHISHU PAL @ SHIV PAL .....RESPONDENT

J U D G E M E N T

HIMA KOHLI, J.

1. Leave granted.

2. The appellants – Director General, Central Reserve Police Force[1] and others have preferred the present appeal against the judgment and order dated 7th February, 2019 passed by the Division Bench of the High Court of Gauhati in a writ appeal[2] upholding the order dated 27th March, 2018 passed by the learned Single Judge in a writ petition[3] setting aside the order of termination of services of the respondent by the

[1] For short 'the CRPF'
[2] Writ Appeal No.248 of 2018
[3] WP(C) No. 5986/2014

Disciplinary Authority *vide* order dated 24th June, 2014 duly upheld by the Appellate Authority on 23rd September, 2014. Resultantly, the appellants were directed to reinstate the respondent in service with all consequential benefits and 50% back-wages. However, liberty was granted to the appellants to impose a minor punishment on the respondent instead of terminating his services. The appeal preferred by the appellants against the judgment of the learned Single Judge has been dismissed by the Division Bench that was of the opinion that as on 30th November, 2011, when the respondent was issued an appointment order and he had filled up the Verification Roll, no summons had been issued against him in a criminal case registered on 4th September, 2011 nor was he aware of the pendency of the said proceedings and therefore, there was no question of his having deliberately withheld any material information regarding his antecedents from his employer. Aggrieved by the said judgment, the appellants have preferred the present appeal.

Factual Matrix

3. The respondent was appointed on the post of a Constable (GD) in the CRPF and inducted in Group Centre, CRPF, Lucknow. On completion of his basic training, he reported to 149 Battalion. At the time of his recruitment on 17th November, 2011, the respondent submitted his character certificate and antecedent certificate, issued by the District Magistrate, District Mainpuri (Uttar Pradesh).

4. As a part of completion of requisite formalities related to recruitment, Group Centre, Lucknow directed all employees including the respondent herein to fill up the Verification Roll. The said Verification Roll stated that if it was found during the service period that the employee had given incorrect details in the verification letter or concealed any correct information, his services could be terminated. Column 12 of the Verification Roll specifically directed the employees to state in clear terms whether he had ever been arrested or prosecuted or whether any case was pending against him in any Court of law at the time of filling up the form. The answer to a series of questions on the same lines was required to be given in a 'Yes' or 'No' format while again cautioning the employee that furnishing of any false information or suppression of any factual information would be a disqualification and likely to render the employee unfit for employment under the government. A warning was also issued that if any false information was furnished or there was suppression of any factual information that came to the notice of the employer during the course of service of a person, his services would be liable to be terminated.

5. The respondent filled up the Verification Roll and gave a reply in the negative in response to all the questions posed in column 12 of the form. Thereafter, verification of the character and antecedents of the respondent was undertaken by the appellants who approached the District Magistrate, Mainpuri, U.P. *vide* letter dated 19th December, 2011. A reply was received on 21st March, 2012 stating *inter alia* that no adverse

remarks were found against the respondent which could disqualify him from service in the CRPF.

6. Subsequently, a letter dated 29th December, 2012 was received in the office of the appellant No. 3 - Commandant, 149 Battalion stating *inter alia* that the respondent had concealed information regarding some cases registered against him on the basis of a First Information Report[4] under Sections 147/148/149/447/332/427/504/506 of the Indian Penal Code[5] and under Section 3(1) of the Uttar Pradesh Control of Goondas Act, 1970[6]. Based on the said letter, steps were taken to re-verify the character and antecedents of the respondent. In the reverification process, the District Magistrate, Mainpuri confirmed that Criminal Case No. 459/2011 had been registered against the respondent and the matter was pending before the Court. A show cause notice was issued to the respondent, *vide* Memorandum dated 9th July, 2013 detailing the charges levelled against him. *Vide* reply dated 1st August, 2013, the respondent categorically denied all the charges as false. This led to initiation of an inquiry against the respondent.

[4] Criminal Case No. 459/2011 and Criminal Case No. 537/2011 @ FIR No. 76 of 2011 dated 4th September, 2011 at Barnhal Police Station, District Mainpuri, U.P.
[5] For short 'IPC';
[6] For short 'UP Goondas Act'

DOMESTIC ENQUIRY PROCEEDINGS

7. The Inquiry Officer submitted his report stating *inter alia* that on examining various documents presented before him and on hearing the respondent, it transpired that not only had he withheld material information in respect of Criminal Case No. 459/2011 and Criminal Case No. 537/2011 registered against him at Barnahal Police Station, Mainpuri which were pending in the Court, he had also furnished fake reports purportedly issued by the SHO of the area on 10th October, 2013, 14th November, 2013 and 20th March, 2014 and that on enquiring, the Station House Officer[7] had given in writing that neither had he prepared the reports purportedly submitted to the authorities in his writing, nor had he signed them and the said reports were not even issued by the concerned Police Station. It is noteworthy that the said reports were submitted by the respondent to the appellants and they recorded that the respondent was unaware of the case registered against him in respect of Criminal Case No.459/2011 and that the said case was closed on a compromise being arrived at with the complainant.

8. On examining the authenticated verification reports received subsequently from the District Officer, District Mainpuri, U.P., Superintendent of Police, District Mainpuri, U.P. and the SHO, Barnhal Police Station, District Mainpuri, U.P., the Inquiry Officer concluded as follows:

[7] For short 'SHO'

"Report of Investigating Officer

Under Office Order No. P. VIII-2/2013- 149-Establishment -Two (S. Pal) dated 08.03.2014 of Commandant- 140 Battalion CRPF undersigned providing a copy of the charges leveled against Force No. 115184265 Constable/GD Shishupal F/ 149 Battalion, CRPF under Rule 27 of the Central Reserve Police Force Rules, 1955 read with Rule 15 of CCS (CCA) Rules 1965 and the ongoing departmental inquiry proceedings against him order for completion was received. I have concluded the investigation on the basis of all the witnesses, relevanl documents and evidence presented before me during the departmental inquiry, the departmental inquiry report prepared by me is as follows -

XXX XXX XXX

8. On the basis of authenticated verification reports received from District Officer District Mainpuri U.P., Superintendent of Police District Nainpuri UP, SHO Barnhal Police Station District Mainpuri Uttar Pradesh, the following facts come to light:-

A) According to the report dated 05.05.2014 sent by the Court Additional District Magistrate Mainpuri, after receiving the police report against Shri Shishupal alias Shivpal son of Bharat Singh resident of Emahasan Nagar police station Barnhal district Mainpuri (accused), registering case no. 236 under Goonda Act notice dated 11.11.2011 was issued and instructions were given to appear in the court on 19.11.2011 but the accused did not appear in the court on the appointed date. The accused had stated in his statement given during his first examination that he was staying in Shikohabad for taking SSC coaching from 03.06.2011 at Lakshy Competition Classes, near Pratappur Chauraha, Shikohabad, District Firozabad, Uttar Pradesh due to which he was not aware of the facts of the case being filed against him.The accused had produced a copy of the certificate dated 08.10.2013 issued by Lakshy Competition Classes Shikohabad, Firozabad in evidence of his statement. In which it was shown that Shishupal son of Bharat Singh, is a native of Emahasan Nagar police station, Barnhal district, Mainpuri. He was studying coaching at his place since last year. While doing coaching, there was a dispute between them and at that time he was implicated in the dispute. He was doing coaching at that time. He used to come to study daily from 30.06.2011 (Evidence No.09) but after verification by the special messenger, no such coaching institute was found at the address given in the certificate. This makes it clear that

during the said period the accused was present in his hometown and even after the case registered against him in the Barnahal police station was in his knowledge, he joined CRPF on 30.11.2011 while filling his verification letter, he did not disclose the said case and has deliberately hidden this fact.

B) From the time of joining this force and filling the verification form till now, the accused has been submitting various fake documents to protect his job (to achieve his personal interest) and has given false statements to prove himself innocent. Therefore, the accused is also accused of presenting wrong facts and making and presenting fake documents.

C) During verification of the copies of police reports dated 10.10.2013, 14.11.2013 and dated 20.03.2014 issued by the police station Barnhal presented by the accused in his defence, SHO Barnhal Mainpuri declared those reports as fake and stated that these certificates were neither in his knowledge nor have the SHO signed them nor have these reports been issued by the Barnahal Mainpuri police station. Rather, this department has also been misled by the accused personnel by preparing it in a completely fake manner. Therefore, this act of the accused completely proves his criminal mentality and at present he has presented wrong facts even during the departmental investigation.

9. It is clear from the verification certification reports of the documents submitted by the accused that the accused has either prepared or got the documentary evidence prepared in a fake manner and from the beginning of this departmental investigation till now, the accused has been presenting as per his wish from time to time during his trial and re-trial. Therefore, the facts and documents presented by the accused during the investigation are beyond veracity and cannot be trusted. Therefore, the allegation leveled against the accused in Item -1 of Clause- I is completely proved beyond any doubt."

DECISION OF THE DISCIPLINARY AUTHORITY AND APPELLATE AUTHORITY

9. The said Inquiry Report was placed before the Disciplinary Authority namely, appellant No. 3 – Commandant, 149 Battalion who observed that while filling his character and antecedent Verification Roll at the time of his appointment, the

respondent had deliberately concealed registration of two cases against him namely, Criminal Case No. 459/2011 and Criminal Case No. 537/2011 and submitted photocopies of fake documents purportedly issued by various authorities. As a result, an order was passed directing the respondent to be removed from service forthwith.

10. Aggrieved by the dismissal order dated 24th June, 2014, passed by the Disciplinary Authority, the respondent preferred an appeal before the Appellate Authority namely, appellant No. 2 - Deputy Inspector General, CRPF Group Centre, Silchar, Assam which was also rejected *vide* order dated 23rd September, 2014 observing that the punishment of removal from service imposed upon him was proportionate to the severity of his crime.

FINDINGS OF THE HIGH COURT

11. The aforesaid decisions were challenged by the respondent in a writ petition[8] filed before the High Court of Gauhati which was allowed by the learned Single Judge *vide* judgment dated 27th March, 2018. The learned Single Judge set aside the dismissal order passed by the appellants against the respondent on the ground that when the respondent was selected for appointment to the post of Constable(GD) and had filled up his Verification Roll stating *inter alia* there was no criminal case pending

[8] Writ Petion No. 5986 of 2014

against him, he was not aware of the said criminal cases and it was only after the order was passed by the appellants on 24th June, 2014, removing him from service that he made inquiries about the criminal case pending against him and that later on, he had been acquitted by the learned Additional Civil Judge(Junior Division), Mainpuri in Criminal Case No. 459/2011. It was also observed that the respondent was fairly young when the incident had taken place and there was possibility of his having committed an indiscretion while furnishing incorrect information in the Verification Roll but not enough for the appellants to have adopted an unduly harsh approach which was disproportionate to the offence allegedly committed by the respondent. As a consequence, the order date 24th June, 2014 passed by the Disciplinary Authority and the order dated 23rd September, 2014 passed by the Appellate Authority were quashed and set aside and the appellants were directed to reinstate the respondent in service with all consequential benefits along with 50% backwages. At the same time, liberty was granted to the appellants to reconsider the matter and impose a minor punishment on the respondent, as prescribed under Section 11 of the CRPF Act, 1949, if so advised. The aforesaid order was unsuccessfully challenged by the appellants in an Intra-Court Appeal[9] filed by them which order is the subject matter of consideration in the present appeal.

[9] Writ Appeal No. 248 of 2018

ARGUMENTS ADVANCED BY LEARNED COUNSEL FOR THE APPELLANTS

12. Ms. Nidhi Gupta, learned counsel for the appellants has assailed the impugned judgment on the ground that the High Court has failed to appreciate that the respondent had committed grave misconduct by suppressing material facts in his Verification Roll about his involvement in Criminal Case No. 459/2011 and Criminal Case No. 537/2011; that the appellants were justified in removing the respondent from service on the ground of suppression of material facts and even on the date when he was removed from service, Criminal Case No. 537/2011 was pending against him and it was only subsequently that he was acquitted in the said case on 22nd October, 2014 which alone could not improve his case of suppression of material facts; that the offences mentioned in Criminal Cases No. 459/2011 and 537/2011 were grave in nature and the respondent was well aware of the pendency of the said cases at the time of filling up the Verification Roll. Learned counsel contended that the High Court has failed to appreciate that when it comes to uniformed service, suppression or false information is taken seriously as such a service requires a higher level of integrity. The respondent cannot claim a right of service or appointment or continuity of service when it has been established that he had deliberately withheld material information relating to his antecedents. Any relaxation given to the respondent would run against the settled procedure established

under the CRPF Act, 1949 and CRPF Rules, 1955 as also OM dated 19th May, 1993 issued by the Department of Personnel and Training, Government of India read with Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965[10] which mandates that when a government servant furnishes false information to secure appointment, he should not be retained in service and should be dismissed after conducting an inquiry.

ARGUMENTS ADVANCED BY LEARNED COUNSEL FOR THE RESPONDENT

13. On his part, Mr. Brijesh Kumar Gupta, learned counsel for the respondent has supported the impugned judgment dated 07th February, 2019 and the findings returned by the learned Single Judge in the judgment dated 27th March, 2018 and urged that while setting aside the order of dismissal from service, an option was given to the appellants to reconsider the case of the respondent and award him lesser punishment as against the major punishment of removal from service imposed on him, which option is still available. Learned counsel stated that the crime in question that resulted in registration of a FIR against the respondent and his family members was related to a land dispute amongst the villagers and the Criminal Court had subsequently acquitted the respondent *vide* order 22nd October, 2014; that it was only after the inquiry was

[10] CCS(CCA) Rules

initiated against the respondent on the basis of the Memorandum of Charges dated 09th July, 2013, that he made inquiries at his level and for the first time gathered knowledge about the case relating to a quarrel between two parties in the village over a plot of land under the possession of his family members where his name was also falsely included. Learned counsel asserted that no warrant or summon had been issued against the respondent which fact was ignored by the appellants at the time of terminating his service. In fact, respondent had been falsely implicated in the criminal cases and deserves leniency.

DISCUSSION

14. We have heard the arguments advanced by learned counsel for the parties, gone through the records and perused the impugned judgment. The question that arises for consideration in the instant case is whether the appellants were justified in terminating the services of the respondent on the post of Constable (GD) in the CRPF after conducting a departmental inquiry against him on receiving information that he had deliberately failed to reveal in his Verification Roll that two criminal cases were pending against him.

15. It is an admitted position that the respondent was required to furnish all the relevant factual information as required in the Verification Roll issued by the CRPF. The Verification Roll started with three sets of warnings that are extracted below :

"Warning

1. The furnishing of false information or suppression of any factual information in the verification Roll would be a disqualification and is likely to render the candidate unfit for employment under the Government.

2. If detained, convicted, debarred etc. subsequent to the completion and submission of this Form the details should be communicated immediately to the authority to whom the Verification Roll has been sent earlier failing which it will be deemed to be a suppression of factual information.

3. If the fact that false information has been furnished or that there has been suppression of any factual information in the Verification Roll comes to notice at any time during the service of a person, his services would be liable to be terminated."

At the end of the Verification Roll, the employee was required to reply in the affirmative or in the negative to specific queries as extracted below:

"(a) Have you ever been arrested?
(b) Have you ever been prosecuted?
(c) Have you ever been kept under detention?
(d) Have you ever been bound down?
(e) Have you ever been fined by a court of law?
(f) Have you ever been convicted by a Court of Law for any offence?
(g) Have you ever been debarred from any examination or rusticated by any University or any other educational Authority /institution?
(h) Have you ever been debarred /disqualified by any Public Service Commission/Staff Selection Board for any of its examination /selection?
(i) Is any case pending against you in any court of law at the time of filling up this Verification Roll?
(j) Is any case pending against you in any University or any other Educational Authority/Institution at the time of filling up this Verification Roll?
(k) Whether discharged/expelled/withdrawn from any Training Institution under the Government or otherwise?

If the answer to any of the above mentioned questions is 'Yes' given full particulars of the case/ arrest/ Detention /fine/ conviction/sentence/punishment etc. and/or the nature of the case

> pending in the Court/ University/Educational Authority etc. at the time of filling up this Form."

16. The respondent herein filled up the Verification Roll on 30th November, 2011 and in response to the specific queries posed in the last two pages, elected to reply in the negative. Subsequently, when a private party submitted a written complaint to the appellants that the respondent had deliberately withheld material information in relation to two criminal cases registered against him at PS, Barnhal, District Mainpuri, U.P. under several sections of the IPC and the U.P. Goondas Act, a show cause notice dated 03rd May, 2013 was issued to the respondent enclosing therewith all the relevant information to which he responded on 13th May, 2013, specifically denying the fact that no case was registered against him or was pending trial or that he had never been arrested by the police or detained in judicial custody.

17. The records however reveal that the respondent was arrayed as a co-accused in Criminal Case No. 459/2011. He was taken into judicial custody and was granted bail by the trial Court on 04th October, 2011. On 13th November, 2013 charges were framed against the respondent and the other co-accused and the matter was set down to trial. All the incidents relating to registration of the FIR, detention of the respondent, his having applied for bail while in judicial custody and being granting bail *vide* order dated 04th October, 2011 had transpired much before he was called upon by the appellants to fill up the Verification Roll, i.e., well before 30th November, 2011. Despite that, the

respondent elected not to disclose the information pertaining to the aforesaid cases to the appellants and replied in the negative to the specific queries posed to him in the Verification Roll, as have been extracted above. He adopted the same stand even after a notice to show cause was issued to him by the appellants calling upon him to explain his conduct. On his categorically denying the allegations levelled against him, the appellants proceeded to follow the prescribed procedure of conducting a departmental inquiry against the respondent for which purpose, an Inquiry Officer was appointed.

18. A perusal of the Inquiry Report submitted by the Inquiry Officer reveals that the respondent had duly participated in the departmental inquiry from the beginning to the end, the statements of all the prosecution witnesses were recorded in his presence and the respondent was also afforded an opportunity to cross-examine the witnesses. He was duly furnished copies of the statements of all the prosecution witnesses and was permitted to lead evidence in his defence, which he did. Only after conducting a full-fledged inquiry did the Inquiry Officer submit his report clearly stating therein that the allegations levelled against the respondent in the Office Memorandum dated 9th July, 2013 to the effect that he had committed misconduct and concealed the fact that two criminal cases were pending against him when he had furnished the information in the Verification Roll, were correct. Further, the departmental inquiry recorded the fact that the respondent had prepared or got prepared forged police reports and certificates favouring him which were in fact never prepared or issued by the SHO, P.S., Barnhal.

19. The aforesaid sequence of events demolishes the plea taken by the respondent that he was innocent and had no knowledge of his implication in the criminal cases mentioned in the charge memo and therefore, there was no occasion for him to have concealed material facts at the time of filling up the Verification Rolls. Not only was the respondent aware of the fact that he had been named in the FIR, he was taken into judicial custody and had applied for bail which was granted by the trial Court on 04th October, 2011, much before the date he filled up the Verification Roll. The other plea taken by learned counsel for the respondent that in any case, the Criminal Court did not find any merit in the case that was trivial in nature and the respondent was accordingly acquitted *vide* order dated 22nd October, 2014 passed by the learned Judicial Magistrate, Mainpuri also does not hold any water inasmuch as the judgment itself notes that the prosecution had failed to prove its case beyond reasonable doubt and for that reason, it was considered appropriate to absolve the respondent and the other co-accused by giving them benefit of doubt. In other words, it was not a case of clean acquittal but a case of paucity of evidence that led to the acquittal of the respondent and the other co-accused. In any event, in our opinion, not much would turn on the subsequent acquittal of the respondent on the basis of the judgment dated 22nd October, 2014 for the reason that the termination of his services is not premised on the pendency of the criminal cases or their outcome, but on the failure on the part of the respondent

to have truthfully disclosed in the Verification Roll that criminal cases were pending against him at the relevant point in time.

JUDICIAL PRECEDENTS AND THEIR APPLICATION

20. Without burdening this judgment with a catena of judicial precedents on the aspect of suppression of material information, submission of false information in the Verification Roll by an aspirant of a job when the incumbent has faced criminal prosecution or has been arrested or on account of pendency of a criminal case, we may directly cite the much quoted decision of a three-Judges Bench of this Court in ***Avtar Singh v. Union of India and Others***[11] where broad guidelines were laid down regarding the yardstick to be applied for verification of disclosures made by a candidate to the employer so as to decide as to whether the applicant would be fit for appointment or not. Following were the pertinent observations made in ***Avatar Singh*** (supra):

> **"29. The verification of antecedents is necessary to find out fitness of incumbent, in the process if a declarant is found to be of good moral character on due verification of antecedents, merely by suppression of involvement in trivial offence which was not pending on date of filling attestation form, whether he may be deprived of employment? There may be case of involving moral turpitude/serious offence in which employee has been acquitted but due to technical reasons or giving benefit of doubt.** There may be situation when person has been convicted of an offence before filling verification form or case is pending and information regarding it has been suppressed, whether employer should wait till outcome of pending criminal case to take a decision or in case when action has been initiated there is already conclusion of criminal case resulting in conviction/acquittal as the case may be. The situation may arise for consideration of various aspects in a

[11] (2016) 8 SCC 471

case where disclosure has been made truthfully of required information, then also authority is required to consider and verify fitness for appointment. Similarly in case of suppression also, if in the process of verification of information, certain information comes to notice then also employer is required to take a decision considering various aspects before holding incumbent as unfit. If on verification of antecedents a person is found fit at the same time authority has to consider effect of suppression of a fact that he was tried for trivial offence which does not render him unfit, what importance to be attached to such non-disclosure. Can there be single yardstick to deal with all kinds of cases?

xxx xxx xxx

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.

xxx xxx xxx

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."

(emphasis added)

21. Ultimately, the purpose of seeking the relevant information with respect to the antecedents of a candidate/employee is to enable the employer to ascertain the suitability of the candidate/employee for the subject post. In ***The State of Madhya Pradesh and Others v. Bhupendra Yadav***[12] (authored by one of us, Hima Kohli, J), citing the decision in ***Avtar Singh*** (supra), the following observations were made:

> "16. As can be discerned from the above decision, an employer has the discretion to terminate or condone an omission in the disclosure made by a candidate. While doing so, the employer must act with prudence, keep in mind the nature of the post and the duties required to be discharged. Higher the post, more stringent ought to be the standards to be applied. Even if a truthful disclosure has been made, the employer is well within its right to examine the fitness of a candidate and in a concluded criminal case, keep in mind the nature of the offence and verify whether the acquittal is honourable or benefit has been extended on technical reasons. If the employer arrives at a conclusion that the incumbent is of a suspect character or unfit for the post, he may not be appointed or continued in service."

22. We may also profitably cite the decision in ***Daya Shankar Yadav v. Union of India and Others***[13] where the consequences of examining the information received from a candidate with respect to his/her antecedents regarding suitability for the post have been discussed as follows:

> "15. When an employee or a prospective employee declares in a verification form, answers to the queries relating to character and antecedents, the verification thereof can therefore lead to any of the following consequences:
> (a) If the declarant has answered the questions in the affirmative and furnished the details of any criminal case (wherein he was convicted or acquitted by giving

[12] (2023) SCC Online SC 1181/ 2023INSC837
[13] (2010) 14 SCC 103

benefit of doubt for want of evidence), the employer may refuse to offer him employment (or if already employed on probation, discharge him from service), if he is found to be unfit having regard to the nature and gravity of the offence/crime in which he was involved.

(b) On the other hand, if the employer finds that the criminal case disclosed by the declarant related to offences which were technical, or of a nature that would not affect the declarant's fitness for employment, or where the declarant had been honourably acquitted and exonerated, the employer may ignore the fact that the declarant had been prosecuted in a criminal case and proceed to appoint him or continue him in employment.

(c) Where the declarant has answered the questions in the negative and on verification it is found that the answers were false, the employer may refuse to employ the declarant (or discharge him, if already employed), even if the declarant had been cleared of the charges or is acquitted. This is because when there is suppression or non-disclosure of material information bearing on his character, that itself becomes a reason for not employing the declarant.

(d) Where the attestation form or verification form does not contain proper or adequate queries requiring the declarant to disclose his involvement in any criminal proceedings, or where the candidate was unaware of initiation of criminal proceedings when he gave the declarations in the verification roll/attestation form, then the candidate cannot be found fault with, for not furnishing the relevant information. But if the employer by other means (say police verification or complaints, etc.) learns about the involvement of the declarant, the employer can have recourse to courses (a) or (b) above."

(emphasis added)

23. In ***Rajasthan Rajya Vidhut Prasaran Nigam Limited and Another v. Anil Kanwaria***[14], this Court had opined that even where there was a subsequent acquittal, an employee cannot claim appointment as a matter of right having furnished false information or having indulged in suppression of material facts relating to a pending

[14] (2021) 10 SCC 136

criminal case. A dent in the credibility of such an employee from the perspective of the employer has been mentioned in the following words:

> "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 catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right."
>
> **(emphasis added)**

24. In the case at hand, the learned Single Judge has erred in accepting the submission made on behalf of the respondent that it was only after the appellants passed the order dated 24th June, 2014 removing him from service that he had inquired about the criminal case pending against him and later on, the respondent was acquitted in Criminal Case No. 459/2011. As noted above, the said observations run contrary to the record itself that clearly reveals that the respondent was well-aware of the fact that a criminal case had been registered against him, he was taken into judicial custody and

had subsequently applied for bail along with other co-accused in the said case which was granted by the trial Court on 04th October, 2011. All the aforesaid events had occurred well before 30th November, 2011, the date on which the respondent had filled up the Verification Roll. Therefore, it has to be observed that the respondent had complete knowledge of the registration of the FIR and pendency of the criminal cases. Despite that, he had wilfully withheld material information from the appellants while filling up the Verification Roll. He had further misconducted himself when the appellants issued him a show-cause notice calling upon him to explain his position and falsely denied the allegations levelled against him in his reply to the notice to show cause that ultimately led to initiation of disciplinary proceedings against him.

25. As for the observations made by the learned Single Judge that the respondent was a young man and his indiscretion ought to be condoned by imposing a minor penalty upon him instead of removing him from service, the answer lies in the following observations made in ***Bhupendra Yadav***(supra)***:***

> "24……The yardstick to be applied in cases where the appointment sought relates to a Law Enforcement Agency, ought to be much more stringent than those applied to a routine vacancy. One must be mindful of the fact that once appointed to such a post, a responsibility would be cast on the respondent of maintaining law and order in the society, enforcing the law, dealing with arms and ammunitions, apprehending suspected criminals and protecting the life and property of the public at large. Therefore, the standard of rectitude to be applied to any person seeking appointment in a Law Enforcement Agency must always be higher and more rigourous for the simple reason that possession of a higher moral conduct is one of the basic requirements for appointment to a post as sensitive as that in the police service."

CONCLUSION

26. Given the aforesaid facts and circumstances of the present case, we are of the firm view that there was no occasion for the learned Single Judge to have interfered in the orders dated 24th June, 2014 passed by the Disciplinary Authority terminating the service of the respondent, duly upheld by the Appellate Authority *vide* order dated 23rd September, 2014. The Appellate Court fell into the same error when it observed that it was incumbent for the appellants to have proven the fact that pendency of the criminal case was within the knowledge of the respondent and the said information had been deliberately withheld by him. The records speak to the contrary and make short shrift of such a plea taken by the respondent. The respondent does not deserve any latitude as it has been established beyond doubt that he was all along aware of the FIR registered against him with Barnhal Police Station, Mainpuri, Uttar Pradesh and the ensuing criminal cases. Not just that, the respondent failed to disclose that he had remained in judicial custody and on moving an application, was released on bail by the trial Court along with other co-accused.

27. In our opinion, the appellants have exercised their discretion as employers in a reasonable manner. On receiving a complaint against the respondent, not only was a show cause notice issued to him, all the relevant information was also furnished. On receiving his categorical denial in reply, the appellants proceeded with disciplinary proceedings against the respondent. The said proceedings were conducted in a fair

manner and taken to their logical conclusion. Only thereafter did the Disciplinary Authority pass an order terminating the services of the respondent which order was upheld by the Appellant Authority, for just and valid reasons. Therefore, it cannot be urged that the decision of the appellants to terminate the services of the respondent was unjustified, tainted by any *malafides* or arbitrariness or too harsh.

28. As a result, we have no hesitation in quashing and setting aside the impugned judgment dated 07th February, 2019 passed by the Division Bench of the High Court upholding the judgment dated 27th March, 2018 passed by the learned Single Judge. The order dated 24th June, 2014 passed by the Disciplinary Authority and endorsed by the Appellate Authority *vide* order dated 23rd September, 2014, are restored and upheld. The present appeal is allowed. Parties are left to bear their own expenses.

…….J.
[HIMA KOHLI]

…….J.
[AHSANUDDIN AMANULLAH]

NEW DELHI,
23rd JULY, 2024