

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

**HON'BLE SHRI JUSTICE SURESH KUMAR KAIT,
CHIEF JUSTICE**

&

**HON'BLE SHRI JUSTICE VIVEK JAIN
WRIT PETITION No. 13526 of 2017**

ATUL THAKUR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Manoj Kumar Sharma - Senior Advocate with Shri Quazi Fakhruddin -
Advocate for the petitioner.*

*Shri Abhijeet Awasthi - Deputy Advocate General for the respondent No.1 -
State.*

Shri Anshuman Singh - Advocate for the respondent No.2.

ORDER

(Reserved on : 30.01.2025)

(Pronounced on : 21.02.2025)

Per: Hon'ble Shri Justice Vivek Jain, Judge

The present petition has been filed challenging the order Annexure P-2 dated 13.07.2015, whereby an order of dismissal of petitioner from the post of Civil Judge Class - II has been issued by the State Government as a consequence of charges being proved against him in departmental enquiry. Challenge is also made to order Annexure P-1 dated 08.03.2017, whereby the representation of the petitioner for reconsideration of the matter has been turned down by the High Court vide order dated 08.03.2017. In the intervening period, the petitioner had also filed statutory appeal, which had been rejected by the

competent Appellate Authority as per Rules of Business of Executive Government vide Annexure P-14 dated 05.10.2016.

2. Learned counsel for the petitioner submitted that the matter relates to suppression of criminal antecedents by the petitioner in the attestation form. It is contended that the petitioner qualified the examination conducted for appointment of Judicial Officers by M.P. Public Service Commission in the year 2007 and on 31.03.2008, he was appointed to the post of Civil Judge Class-II by the State Government and a consequential posting order was issued by the High Court on 14.07.2008 placing him as a trainee Judge. It is contended that on 10.12.2010, the petitioner was placed under suspension, which was revoked on 14.05.2012 and in the intervening time a charge sheet was issued to him on 23.02.2011 (Annexure P-7), wherein charge was framed against him to the effect that two FIRs have been lodged against him at Crime No.313/2002 and 812/2007, both at Police Station Ganjbasoda, District Vidisha, but he suppressed the said criminal cases in the attestation form, though the said cases were still pending against him on the date of filling up attestation form.

3. It is argued that the Enquiry Officer wrongly held the charge to be proved in the matter of suppression of criminal case arising from FIR at Crime No.313/2002, though the charge in respect of FIR at Crime No.812/2007 was not found sustained by the Enquiry Officer. Learned counsel for the petitioner has argued that the enquiry suffered from various technical defects and that the case was not a case of willful suppression of criminal antecedents, but was the

case of bonafide mistake as there was no suppression of required information in an wilful manner. Thus, the case was not the case of harshest punishment of dismissal from service. It is further argued that the cases against the petitioner related to trivial offences, which could not be said to be grave in nature so as to justify awarding of punishment of dismissal from service. Learned Senior Counsel for the petitioner has relied on various judgments of the Supreme Court to submit that in case of trivial offences, the employer shall adopt a sympathetic view and dismissal from service is not the appropriate punishment.

4. *Per contra*, the petition is vehemently opposed by learned counsel for the respondents. It is contended that the petitioner was a contender to the post of Civil Judge. The said post carries with it a number of responsibilities and duties towards the litigants so also the society. A person seeking appointment on the post of Civil Judge should be a person of impeccable integrity and antecedents. It is vehemently argued that firstly, the offences were not trivial and secondly, even if the offences had been trivial, then also mere suppression of criminal antecedents is in itself a sufficiently grave misconduct so as to justify dismissal from service.

5. It is also argued that it is not a case where the candidate had truthfully disclosed the criminal antecedent and despite that the employer had decided not to appoint the candidate in service and for that purpose the offences being trivial in nature or amounting to moral turpitude or not would have been relevant. However, in the present case not only the offences amount to moral turpitude,

but also the very suppression of antecedents is itself sufficient warranting dismissal from service, more so, when the person was holding the post of Civil Judge. A person holding the said post is expected to be having antecedents and character above board and free from all doubts and clouds. Thus, on these grounds, the petition is prayed to be dismissed.

6. Heard learned counsel for the parties.

7. The petitioner was admittedly appointed vide order dated 31.03.2008. Prior to issuance of appointment order, the petitioner had signed the attestation form on 02.12.2007. In the attestation form column No.12 had two portions (क and ख). Column 12-क comprised the following queries and a common answer "No" was indicated by the petitioner in response to all the queries in column 12(क). The queries were as under:-

(i) Have you ever been arrested ?

(ii) Have you ever been prosecuted ?

(iii) Have you ever been arrested ?

(iv) Have you ever been asked to submit a bond ?

(v) Have you ever been fined ?

(vi) Have you ever been convicted for any offence by a Court of law ?

(vii) Have you ever been debarred from the examinations conducted by any Public Service Commission or declared disqualified ?

(viii) Have you ever been debarred from appearing in examination conducted by any University or educational institution or authority or expelled from the same ?

8. Column 12 (ख) comprised the following queries and in response to all those queries, the petitioner had marked a common response "No". The queries were as under:-

(I) At the time of filling up this attestation form whether any case is pending against you in any Court, University or any educational institution/authority.

(II) If the answer in response to any of the queries in para क or ख is Yes, then you should give the complete particulars of the case, arrest, detention/fine, conviction and sentence and if at the time of filling up of this attestation form any case is pending before any Court/University/educational authority, then its nature should be disclosed. Apart from this information, the following information shall also be given wherever applicable :-

- (i) Offence/charge to registration in Police Station.*
- (ii) Whether challan presented in Court with name of Court.*
- (iii) Case Number before the Court and date of disposal.*
- (iv) Punishment imposed.*
- (v) Whether acquitted.*
- (vi) Whether acquittal is on the basis of benefit of doubt or withdrawal of prosecution.*

(emphasis supplied)

9. The said attestation form contained a remark that the candidate should also see the warning given at the top of the attestation form and that relates to drastic consequences in case of suppression of material information.

10. In the above backdrop, the status of cases against the petitioner if seen, then it comes out that FIR No.313/2002 was registered against the petitioner under Section 420 I.P.C. and Section 3/7 of the Essential Commodities Act. The petitioner was running a petrol pump at the relevant point of time and as submitted by learned senior counsel for the petitioner, the matter related to overcharging of consumers from the fuel being sold from the petrol pump. The petitioner was acquitted in the said offence on the basis of compromise on 06.02.2008 under Section 420 I.P.C. and acquitted under Section 3/7 of the Essential Commodities Act as the charges were not proved. Thus, on the date of filling up of attestation form, i.e. 02.12.2007 the case before the Criminal Court was still pending, which ended in compromise for

some of the charges and acquittal for rest of the charges, for obvious reasons, as there was compromise with the complainant.

11. So far as the other offence at Crime No.812/2007 is concerned, the said case was under Sections 323, 324, 342 and 506/34 I.P.C. The J.M.F.C. took cognizance against him on 05.12.2008 and the said case ended in compromise on 04.03.2011. Though, this case was not disclosed in attestation form, but it was disclosed in affidavit dated 17.04.2008, which is after the date of appointment, though the said affidavit is not on record, but reference to the said fact is contained in the enquiry report. The enquiry officer conducted an enquiry and in the enquiry report the enquiry officer found the charge proved in respect to suppression of offence in Crime No.313/2002 and did not find the charge in the matter of suppression of Crime No.812/2007 proved by holding that looking to the stage of the said case and looking to the queries in the attestation form, suppression of offence at Crime No.812/2007 does not amount to any misconduct. However, the suppression of offence at Crime No.313/2002 was held to be an act of willful suppression. Therefore, we proceed to dwell upon the aspect of suppression of Crime No.313/2002.

12. Crime No.313/2002 was registered in the year 2002 and related to overcharging of consumers in the petrol pump run by the petitioner. Section 420 I.P.C. is undisputedly an offence of moral turpitude. The Department of Home, Government of Madhya Pradesh has issued Circular dated 05.06.2003, which

was in force at the relevant point of time and as per the said Circular offence under Section 420 I.P.C. amounted to offence of moral turpitude.

13. The petitioner admittedly suppressed pendency of this case and trial before the Court in the attestation form submitted on 02.12.2007. In the statement of defence submitted to the District Judge (Inspection and Vigilance), Indore dated 04.07.2011, it has been contended by the petitioner therein that he filled attestation form under a bonafide belief and that he was student at that time and ignorant about legal matters. It is surprising to note that a candidate getting selected to the post of Civil Judge Class - II is projecting himself to be ignorant about legal matters and such ignorance is not pleaded by a School or College student, but by a Civil Judge selectee, that too at the time when he was around 30 years of age.

14. In yet another defence statement submitted to the Registrar General of the High Court dated 22.02.2012, the petitioner mentioned in para 1 that he belongs to a business family and before joining the State Judicial Service, no occasion arose for him or his family members to submit any declaration in the nature of attestation form. It was contended that lapse in not mentioning the information in respect to Crime No.313/2002 occurred only due to inadvertence and mistaken information supplied by his counsel. In para 4 of statement of his defence, it was contended that the complainant had filed an application for compounding the case by compromise on 15.11.2007 and counsel had erroneously informed him that the case has been compounded and closed on

15.11.2007 itself and only because of this erroneous information supplied by his counsel by mistake he did not disclose any fact about crime No.313/2002. However, it cannot be believed that a Civil Judge selectee did not know that some of the offences are non-compoundable and that the case comes to end not by filing application, but upon passing order by the Court.

15. As noted above by us, the attestation form had various queries and the queries related to the candidate having ever been prosecuted, submitted bond or any case being pending before any Court or authority. In Column 12 (ख) specific mention was made that if in response to any of the queries, the answer is "Yes", then complete particulars of the crime, FIR number, date of challan, name of Court, status of case, etc. has to be given. The petitioner did not disclose the fact of he having been prosecuted. Even if he was under impression that the case has been compromised on 15.11.2007, then it was evident that he had been prosecuted, because FIR was registered in the year 2002 and he was bound to disclose that fact. The matter related to cheating with the consumers purchasing petrol from the petrol pump run by the petitioner. If a person who is selected for the post of Civil Judge suppresses a pending case or a previous prosecution in the matter of cheating, then it cannot be said to be a trivial matter. In any case, cheating is never a trivial matter and it certainly amounts to moral turpitude.

16. Therefore, the case is clearly a case of wilful suppression of material information in the character attestation form and the petitioner wilfully suppressed his criminal antecedents. Now the effect of such suppression has to be seen and as per counsel for the petitioner suppression being of trivial matter should have been overlooked and ignored and could not form a basis for dismissal from service.

17. Learned counsel for the petitioner has relied on the judgment of the Supreme Court in the case of *Ravindra Kumar v. State of U.P.*, (2024) 5 SCC 264, wherein it has been held that mere suppression is not a relevant fact and the employer can look into the nature of criminal case, socio-economic strata of candidate etc. However, in the present case, the petitioner belongs to an upper strata of society as he admits to belong to a business family and running a petrol pump. The query in the attestation form was clear and he is a legally trained person and got selected to the post of Civil Judge. The offence in question also amounts to moral turpitude as it was an offence of cheating along with provisions of Essential Commodities Act. Therefore, this judgement does not help the petitioner at all.

18. Reliance is also placed on judgment of the Supreme Court in the case of *Umesh Chandra Yadav v. Northern Railway*, (2022) 14 SCC 244. In the said case, the candidate was a juvenile when the criminal complaint was lodged against him and in those peculiar circumstances of the case and looking to the nature of queries in the attestation form, the Supreme Court has held that

suppression cannot be said to be not bonafide. This case was also a case of constable as was the petitioner in **Ravindra Kumar (supra)**.

19. Various other judgments have been cited by learned counsel for the petitioner including *Kamal Nayan Mishra v. State of M.P.*, (2010) 2 SCC 169, and in the case of *State of W.B. v. Mitul Kumar Jana*, (2023) 14 SCC 719. In the aforesaid cases, either the offences were held to be trivial and the clause in attestation form held to be ambiguous and non-specific, or the case related to the candidate being subjected to termination of services many years after entry in service, that too without any departmental enquiry. On facts the Supreme Court held that the nature of offence can be looked into and the circumstances surrounding to which suppression has been made can be looked into. However, the present case is a case of willful suppression of a legally trained candidate, who is getting selected to the post of Civil Judge and the offence also admittedly amounts to moral turpitude. The subsequent acquittal is also on basis of compromise.

20. Reliance was placed on the judgment of the Supreme Court in the case of *Mohd. Imran v. State of Maharashtra*, (2019) 17 SCC 696, in the said case the Supreme Court had directed reconsideration of the case of a candidate for judicial services and held that mere disclosure is not sufficient to hold the candidate suitable for candidature. It was not the case of suppression of facts, but was a case where despite truthful disclosure criminal antecedents, his candidature was turned down.

21. Reliance was also placed on the judgment of the Supreme Court in the case of *Apoorva Pathak vs. High Court of M.P. and another 2023 SCC OnLine SC 1445*, wherein the Supreme Court has allowed the writ petition of the candidate. However, the said case involved a trivial offence and proceeds on the ground that the prosecution was under Section 289 I.P.C. relating to pet dog of the candidate biting a neighbour, and for which she was acquitted in the year 2018 and this fact had been truthfully disclosed in the attestation form. This case was also not a case of suppression of antecedents.

22. The petitioner in the present case belonged to judicial service and there was suppression of material information in the attestation form. In the case of *Apoorva Pathak v. High Court of M.P., (2019) 4 MP LJ 400*, it has been held by the Division Bench that the information to be given by the candidate must be true and there should be no suppression or false supply of the requisite information in a case of deliberate suppression of fact would in itself assume significance and employer may pass appropriate order cancelling candidature for terminating services of the candidate. The Division Bench has held as under:-

21. In view of the obtaining factual matrix of the present case and the law laid down by the Supreme Court, the authorities relied upon by the learned counsel for the petitioner would not render any assistance to the petitioner. The judgments relied upon by the petitioner in the cases of *Sandeep Kumar* (supra) and *Dhawal Singh* (supra) were considered by the Constitution Bench of the Supreme Court in the case of *Avtar Singh* (supra) and after considering various decisions, the larger Bench in a reference made to it has observed that the information given to

the employer by a candidate as to conviction, acquittal, 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 supply of the requisite information. It has also observed that 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.

22. A Full Bench of this Court in the case of *Ashutosh Pawar v. High Court of M.P.*, (2018) 2 MP LJ 419 wherein the decision of another Division Bench of this Court granting relief and benefit to a petitioner who had been acquitted on the basis of a compromise has been set aside. In the case of *Union Territory, Chandigarh Administration v. Pradeep Kumar*, 2018 MPLJ Online (S.C.) 41 : (2018) 1 SCC 797 the Apex Court held that mere acquittal in a criminal case does not confer any right on an individual to claim employment and in spite of such acquittal the employer has a right to take into consideration all aspects and reject the claim of the applicant on this ground.

25. In the light of the aforesaid facts and enunciation of law, in the present case the employer has taken into consideration the specific language of clause 14 of the attestation form and the fact that the said attestation form was submitted on 18-4-2018 after execution of personal bond on 17-3-2018, but the said fact was not disclosed in the form. Further, the petitioner submitted an affidavit on 19-4-2018 before the respondents, but in the said affidavit also she did not disclose the aforesaid registration of crime, arrest and execution of personal bond by her. The employer has taken into consideration the conduct of the petitioner of non-disclosure and suppression in the attestation form, irrespective of the nature of allegations against the candidate which may be of petty nature. The conduct of a candidate of suppression or misrepresentation of information in the attestation form itself amounts to moral turpitude. The petitioner was a candidate to be recruited to judicial service and in such appointment, a candidate must be of impeccable character and integrity.”

The said judgment was affirmed by the Supreme Court, however, in the subsequent selection when the same candidate truthfully disclosed her criminal antecedents, then for subsequent selection her candidature was upheld by the

Supreme Court in *Apoorva Pathak vs. High Court of M.P. and another 2023 SCC OnLine SC 1445*.

23. In the case of *State of W.B. v. S.k. Nazrul Islam, (2011) 10 SCC 184*, even in the cases of Constables, it has been held by the Supreme Court that as the candidate has concealed the fact that he was involved in a criminal case and therefore, upheld the rejection of candidature. A similar view was taken by another Division Bench of this Court in the case of *State of M.P. through its Principal Secretary vs. Dinesh Singh Parihar, 2015 SCC OnLine MP 7526* by holding as under:-

“6. Considering the above submissions, the impugned order of the Writ Court and considering the case of *Mehar Singh* (supra), we find that in the matter of *Mehar Singh* Apex Court had come down heavily regarding the fact that the police force is a disciplined post and it shoulders the great responsibility of maintaining law and order and public order in the society. It is clear that a candidate to be recruited to the police service must be worthy of candidature and must be a person of utmost rectitude and must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was completely exonerated. Persons who are likely to erode the credibility of the police ought not to enter the police force. No doubt the Screening Committee has not been constituted in the case considered by this Court, as rightly pointed out by learned counsel for the respondent, in the present case, the Superintendent of Police is the appointing authority. There is no allegation of mala-fides against the person taking the said decision nor is the decision shown to be perverse or irrational. There is no material to show that the appellant was falsely implicated. Basis of impugned judgment is acquittal for want of evidence or discharge based on compounding. In the present case the appellants/State having alleged concealment regarding the registration of offence by the respondent/petitioner and hence the impugned order of cancellation of his candidature is passed. Whereas the learned Writ Court in the present case has considered that there was provision for an approval of the

Inspector General of Police under Regulation 54 of the M.P. Manual and Regulations even when a candidate had been convicted. In this aspect, we find that the appeal needs to be allowed. The discretion is available to the appellants/State regarding concealment/suppression; and parity cannot be claimed in the present case with *Mehar Singh* (supra). Hence, the order of learned Court is set aside and the petition of the petitioner is dismissed.”

The aforesaid case was the case of Constable in police force whereas the present case is one of appointment in judicial service.

24. Very recently the Supreme Court in the case of *Yogeeta Chandra vs. State of Uttar Pradesh and another reported in 2023 LiveLaw (SC) 142* has upheld the termination of services of the judicial officer for not disclosing pendency of criminal case at the time of making application. The Supreme Court noted that subsequent closure of criminal cases is immaterial when the candidate has made dishonest suppression. The Supreme Court has held as under:-

“6. In the application form, the applicant, who, as such, applied for the post of a judicial officer was required to disclose certain facts, more particularly, the facts stated in Clause 18 of the Application Form and non-disclosure of true facts and not only that but saying “No” can certainly be said to be suppression of material facts. It was immaterial whether there was a closure report or acquittal or conviction. At this stage, it is required to be noted that the particulars which were asked, whether “did you ever figure as an accused or a complainant in any criminal case? If so, give particulars with result.” Therefore, the factum of figuring the name either as an accused or a complainant in any criminal case was required to be disclosed with full particulars and with result. Therefore, the appellant cannot take the plea and/or defence that as a Closure Report was filed in the complaint in which she was the accused, the same was not required to be disclosed. On the basis of the nature of the allegations in the complaint either as an accused or a complainant, it is ultimately for the employer

to take a conscious decision whether to appoint such a person or not. What could be considered while actually appointing a person depends upon the facts and circumstances of each case and it is ultimately for the employer to take a conscious decision. The post which was applied by the appellant was a very important post of judicial officer and therefore, it was expected of a person who applied for the judicial officer to disclose the true and correct facts and give full particulars as asked in the application form. If in the application form itself, she has not stated the true and correct facts and suppressed the material facts, what further things can be expected from her after she was appointed as a judicial officer.

7. From the impugned judgment and order passed by the High Court, it appears that it was the case on behalf of the appellant that the services of the appellant could not be put to an end without holding the departmental enquiry under Article 311 of the Constitution of India. However, it is required to be noted that the termination was not on the ground of any misconduct. It was the case of cancellation of the appointment on not disclosing the true and correct facts in the application form. Therefore, as rightly observed by the High Court, there was no question of holding any departmental enquiry under Article 311 of the Constitution of India.”

In the aforesaid case, the Supreme Court went on to hold that in such cases even departmental enquiry is not essential. However, in the present case, a regular departmental enquiry has indeed been conducted.

25. The Supreme Court in the case of *Avtar Singh v. Union of India*, (2016) 8 SCC 471 has held in para 38.7 that in case of deliberate suppression of facts with respect to pending cases such false information by itself will assume significance and employer may pass appropriate order cancelling candidature for terminating services of the person. The Supreme Court even went on to hold that even when a pendency of criminal case was not known to the candidate at the time of filling of form, still it may have adverse impact and the appointing authority would be free to take decision after considering the seriousness of the

crime. The suppression of cases of trivial nature may only be overlooked and that too looking to the nature of post and duties. This will obviously not apply where the post in question is an important or sensitive post like Judicial Officer, requiring highest standards of character and integrity and offences involving moral turpitude. In the said case, the Supreme Court held as under:-

“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.”

26. In the case of *State (UT of Chandigarh) v. Pradeep Kumar, (2018) 1 SCC 797*, the Supreme Court has held that even in the case of acquittal it is open for the employer to examine the suitability of the candidate and take appropriate decision. Similar view was taken in the case of *State of Rajasthan v. Love Kush Meena reported in AIR 2021 SC 1610* so also in the case of *Pawan Kumar v. Union of India, (2023) 12 SCC 317*. All the said cases were the cases where the charges were of trivial nature and acquittal had been recorded. The Supreme Court held that even in the cases of acquittal the employer can take note of all the attending circumstances and even in the cases of acquittal the employer is at liberty to take appropriate decision. However, in the present case not only where the acquittal is on the basis of compromise, but even the pendency of the case was suppressed, which is in itself is not condonable. The candidate was not a semi-literate person who did not understand the nuances of language, which is not complicated one, but plain, simple and clear. Even if that had been the case, an incumbent for public service

should be careful enough to disclose all information truthfully and a wilful act of suppression cannot be brushed under camouflage of ignorance.

27. So far as the other grounds raised by the petitioner that once he was appointed in service, therefore, there should be deemed to be an estoppel against the employer and no decision and no adverse action could thereafter be undertaken against the petitioner and heavy reliance was placed on the case of **Mitul Kumar Jana (supra)**. This argument also deserves rejection because in the present case a regular departmental enquiry had been conducted, though the factum of suppression was admitted and defence of legal ignorance was set up. It is a case of suppression and not a case where the information had been disclosed truthfully prior to issuance of appointment order. At no point of time before issuance of appointment order, the petitioner has been shown to have disclosed his prosecution relating to Crime No.313/2002.

28. Consequently, we find no merits in the present petition; the same deserves to be and is hereby **dismissed**.

(SURESH KUMAR KAIT)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE

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