



2026:AHC-LKO:29562

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

A.F.R.

WRIT - A No. - 14466 of 2025

Akash Singh

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. / Prin. Secy.
Deptt. Of Home Lko And 6 Others

.....Respondent(s)

Counsel for Petitioner(s) : Utsav Mishra
Counsel for Respondent(s) : C.S.C.

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

Heard Sri Utsav Mishra, learned counsel for the petitioner and Sri Maneesh Pratap Singh, learned Standing Counsel appearing for the State.

By means of the present petition, the petitioner has assailed the impugned order dated 03.09.2025, whereby his selection/candidature has been cancelled by respondent No. 6, Superintendent of Police, Deoria.

Brief facts of the case are that pursuant to the advertisement dated 23.12.2023 issued by the U.P. Police Recruitment and Promotion Board, Lucknow, applications were invited for the post of Constable (Civil Police) through direct recruitment. In the said advertisement, under Clause 3.5, it was provided that a prospective candidate who is found guilty of an offence involving moral turpitude shall not be eligible for appointment to the post of Constable (Civil Police).

Clause 3.5 of the said advertisement is extracted hereinafter:-

"टिप्पणी

संघ सरकार या किसी राज्य सरकार या किसी स्थानीय प्राधिकारी द्वारा या संघ सरकार या किसी राज्य सरकार के स्वामित्वाधीन या नियंत्रणाधीन किसी नियम या निकाय द्वारा पदच्युत व्यक्ति सेवा में किसी पद पर नियुक्ति के लिये पात्र नहीं होंगे। नैतिक अधमता के किसी अपराध के लिए दोष सिद्ध व्यक्ति भी सेवा में किसी पद पर नियुक्ति के लिये पात्र नहीं होंगे।"

It is submitted that under Clause 8(2) of the advertisement dated 23.12.2023, the U.P. Police Recruitment and Promotion Board reserved the right to

cancel the candidature of a candidate in case any vital information, such as pendency of a criminal case, polygamy, etc., is found against a prospective candidate. The petitioner, possessing all requisite qualifications, applied for the post of Constable (Civil Police) pursuant to the aforesaid advertisement. The written examination was conducted in the month of August, 2024, wherein the petitioner was declared successful and his name finds place at Serial No. 57107 of the selection list.

Thereafter, the petitioner appeared for document verification before the competent authority and was found successful. Subsequently, vide letter dated 11.04.2025 issued by the Additional Superintendent of Police/Nodal Officer (Direct Recruitment-2023), District Sultanpur, the petitioner was directed to appear for medical examination in terms of Rule 15(6) of the U.P. Police Constable and Head Constable Service Rules, 2017.

In compliance thereof, the petitioner appeared for medical examination on 23.04.2025, wherein he was required to fill Police Form No. 92, which mandates disclosure of all criminal antecedents. The petitioner accordingly submitted an affidavit dated 24.05.2025, disclosing all three criminal cases pending against him, along with the fact that he has not been convicted in any of the said cases.

The details of the three cases are as under:-

"1. FIR/Case Crime No. 364 of 2021 under Sections 352, 504 IPC & Section 4/10 of Forest Conservation Act, Police Station-Gosaiganj, District-Sultanpur.

2. FIR/Case Crime No. 13 of 2022 under Sections 323, 504, 506 IPC and Section 3(1)(Da) & 3(1)(Dha) of SC/ST Act, Police Station-Gosaiganj, District-Sultanpur.

3. FIR/Case Crime No. 711 of 2023 under Sections 406, 419, 420, 467, 468 & 471 IPC, Police Station-Kotwali Nagar, District-Sultanpur."

Vide letter dated 30.05.2025, issued by the Additional Superintendent of Police, Headquarters of the Director General of Police, U.P., Lucknow, the petitioner was allotted District Deoria for appointment to the post of Constable (Civil Police). However, in the meantime, the impugned order dated 03.09.2025 came to be passed by respondent No. 6, whereby the candidature/selection of the petitioner has been cancelled on the

recommendation of respondent No. 4, District Magistrate, Sultanpur, as well as on account of non-issuance of a 'No Objection Certificate' by the Superintendent of Police, Sultanpur, declaring the petitioner ineligible for appointment.

Submission of learned counsel for the petitioner is that the impugned order has been passed on the ground that out of the three criminal cases registered against the petitioner, in two cases charge-sheets have been filed, while in one case, i.e. FIR/Case Crime No. 711 of 2023 under Sections 406, 419, 420, 467, 468 and 471 IPC, the allegations involve an offence of moral turpitude. It is submitted that in the said case, a final report has already been submitted, though no decision has yet been taken by the competent trial Court. However, on the basis of such criminal antecedents, coupled with the fact that in the other two cases charge-sheets have been filed, and treating FIR/Case Crime No. 711 of 2023 as involving moral turpitude and pending before the trial court, the impugned order has been passed read with the Government Order dated 28.04.1958.

Learned counsel for the petitioner submitted that with regard to FIR/Case Crime No. 711 of 2023 under Sections 406, 419, 420, 467, 468 and 471 IPC, a Criminal Misc. Writ Petition No. 6276 of 2023 (Smt. Deepa Singh vs. State of U.P. and Others) was filed which, after exchange of pleadings, was allowed vide judgment and order dated 01.02.2024, whereby the said FIR, registered at Police Station Kotwali Nagar, District Sultanpur, came to be quashed. He submits that the very basis for passing the impugned order is the aforesaid FIR. The impugned order, as contained in Annexure No. 1, records that since a final report has been submitted by the police in the said case and the same is pending consideration before the trial court, and no decision has yet been taken by the court concerned, the candidature/selection of the petitioner has been cancelled.

Submission is that FIR/Case Crime No. 711 of 2023 was quashed vide judgment and order dated 01.02.2024 passed in Criminal Misc. Writ Petition No. 6276 of 2023, whereas the impugned order has been passed subsequently on 03.09.2025. It is submitted that while passing the impugned order, the authorities have failed to consider that the said FIR/Case Crime No. 711 of 2023 had already been quashed by a Division Bench of this Court and no appeal has been preferred by the State against the said judgment. It is, thus, submitted that the very basis on which the impugned order has been

passed no longer survives, inasmuch as FIR/Case Crime No. 711 of 2023 is no longer in existence.

It is submitted that the remaining cases, i.e. FIR/Case Crime No. 364 of 2021 under Sections 352 and 504 IPC and Section 4/10 of the Forest Conservation Act, Police Station Gosaiganj, District Sultanpur, entails offences punishable with a maximum sentence of up to three years. So far as FIR/Case Crime No. 13 of 2022 under Sections 323, 504, 506 IPC and Section 3(1)(Da) & 3(1)(Dha) of SC/ST Act, Police Station Gosaiganj, District Sultanpur is concerned, it is submitted that only general and sweeping allegations have been levelled against all the accused persons, and no specific role has been attributed to the petitioner. The said offences are punishable with a maximum sentence of up to seven years.

In support of his argument, learned counsel for the petitioner relied upon the judgment passed by the Hon'ble Supreme Court in **Avtar Singh vs. Union of India, (2016) 8 SCC 471**.

It is submitted that the FIR/Case Crime No. 711 of 2023 is not under moral turpitude. In this regard, attention of the Court has been invited towards a finding given by the Division Bench of this Court while quashing the said FIR on paragraph 8 and 9 of the judgment and order dated 01.02.2024 passed in Criminal Misc. Writ Petition No. 6276 of 2023.

Learned Standing Counsel for the State has opposed the aforesaid contention. He submits that the FIR/Case Crime No. 711 of 2023 false under the category involving moral turpitude.

Perused the record so also the impugned order including the law on the issue.

A perusal of the counter affidavit filed by the State particularly paragraph 20 it appears that the FIR/Case Crime No. 711 of 2023 under Sections 406, 419, 420, 467, 468 & 471 IPC, Police Station-Kotwali Nagar, District-Sultanpur, falls under the category of cases involving moral turpitude in which although the final report was submitted to the trial Court concerned on 25.02.2025, the case remains pending in the trial Court concerned and petitioner has not yet been acquitted of the said case involving moral turpitude and therefore the impugned order has been passed. Except this there is no specific pleadings have been made in the counter affidavit filed by the State.

This Court has noticed that petitioner in paragraph 51 of the writ petition has given an instance of various candidates as many as six names against whom criminal cases are pending have been given appointment. However, while filing the counter affidavit no reply has been given in paragraph 27 of the counter affidavit.

The Hon'ble Supreme Court in **Avtar Singh (supra)**, while considering the issue of pending criminal cases at the stage of recruitment, laid down guidelines in paragraph 38, which is 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."

It is not in dispute between the parties that at the time of Medical Examination, the petitioner truthfully disclosed all the three criminal cases

registered against him, out of which FIR/Case Crime No. 711 of 2023 stood quashed by a Division Bench of this Court vide judgment and order dated 01.02.2024 passed in Criminal Misc. Writ Petition No. 6276 of 2023. So far as the remaining two cases are concerned, both entail offences punishable with a maximum sentence of up to seven years.

It is evident that the sole ground taken by the respondents while passing the impugned order is the pendency of FIR/Case Crime No. 711 of 2023 and the final report submitted therein, stated to be pending adjudication before the trial court and the petitioner has not been acquitted in the said case. Petitioner placed on record the judgment and order dated 01.02.2024 passed by the Division Bench quashing the aforesaid FIR, the respondents, while filing the counter affidavit, have neither specifically denied nor they have bothered to address on this point.

This Court further notices that while quashing FIR/Case Crime No. 711 of 2023, the Division Bench, in its judgment dated 01.02.2024, has recorded a categorical finding that both parties had withdrawn all cases and complaints instituted against each other. It has also been observed, inter alia in paragraph 9 of the said judgment, that the dispute between the parties was essentially of a commercial nature.

The Hon'ble Supreme Court, in **State Bank of India and Others vs. P. Soupramaniane, (2019) 18 SCC 135**, while dismissing the appeal filed by the State and affirming the judgment of the High Court, has held that even in cases of conviction, it cannot be said that every instance of assault or simple hurt would necessarily fall within the category of offences involving moral turpitude.

Relevant observations made in paragraph 16 of the judgment are extracted hereinunder:-

"16. There can be no manner of doubt about certain offences which can straightaway be termed as involving moral turpitude e.g. offences under the Prevention of Corruption of Act, the NDPS Act, etc. The question that arises for our consideration in this case is whether an offence involving bodily injury can be categorised as a crime involving moral turpitude. In this case, we are concerned with an assault. It is very difficult to state that every assault is not an offence involving moral turpitude. A simple assault is different from an aggravated assault. All cases of assault or simple hurt cannot be categorised as crimes involving moral turpitude. On the other

hand, the use of a dangerous weapon which can cause the death of the victim may result in an offence involving moral turpitude. In the instant case, there was no motive for the respondent to cause the death of the victims. The criminal courts below found that the injuries caused to the victims were simple in nature. On an overall consideration of the facts of this case, we are of the opinion that the crime committed by the respondent does not involve moral turpitude. As the respondent is not guilty of an offence involving moral turpitude, he is not liable to be discharged from service."

In the present case, out of the three criminal cases, FIR/Case Crime No. 711 of 2023 has already been set aside by a Division Bench of this Court vide judgment and order dated 01.02.2024 passed in Criminal Misc. Writ Petition No. 6276 of 2023. The State, being a party to the said proceedings, has neither controverted nor made any comment with regard to the said judgment while filing the counter affidavit. The said judgment, therefore, appears to have attained finality, as no contrary stand has been taken by the respondents in the counter affidavit.

So far as the remaining two cases are concerned, the offences alleged therein entail a maximum sentence of up to seven years. It is well settled that no straightjacket formula can be applied in such matters, and the trials in both the cases are still pending.

In respect of the said two cases, applying the tests laid down by the Hon'ble Supreme Court in various judgments, the nature of allegations does not prima facie indicate offences involving moral turpitude affecting society at large. The allegations against the petitioner are yet to be adjudicated and are subject to determination during trial.

It is further relevant to note that out of the three cases, FIR/Case Crime No. 711 of 2023 has already been quashed by the Division Bench of this Court vide judgment and order dated 01.02.2024, wherein a categorical finding has been recorded that the dispute between the parties was essentially commercial in nature and has already been settled between them.

Thus, considering the judgment of the Hon'ble Supreme Court in **Avatar Singh (supra)**, wherein, while referring to Commissioner of Police vs. Sandeep Kumar, it has been observed in paragraphs 8 and 9 that youthful indiscretions and minor offences ought not to result in branding a person as a criminal for life and that the approach of the State should be reformative

rather than punitive, and applying the said principles to the present case, the pendency of two criminal cases, wherein the role assigned to the petitioner is general in nature, does not constitute a valid ground to deny appointment to the petitioner, particularly when he is not a convict and the allegations in the said cases are yet to be adjudicated during trial.

In view of the aforesaid discussion, the impugned order dated 03.09.2025 passed by the respondent No. 6, contained in Annexure No. 1, is hereby quashed. The respondent No. 6 is directed to issue the appointment letter to the petitioner forthwith. Such appointment shall, however, be subject to the final outcome of the criminal trials in the said two cases.

Resultantly, the writ petition succeeds and is **allowed**.

April 24, 2026
Vinay/-

(Karunesh Singh Pawar,J.)