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2026:CGHC:39493

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HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1470 of 2025**

Hira Prasad Yadav S/o Late Dubraj Prasad Yadav Aged About 48 Years R/o Babupara, Ambikapur, District Surguja (C.G.)

Petitioner(s)**versus**

1 - State Of Chhattisgarh Through Secretary, Higher Education Department, Mantralaya, Mahanadi Bhawan, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

2 - Chhattisgarh Public Service Commission, Through Its Secretary, Chhattisgarh Public Service Commission, Sector 19, Nawa Raipur, Atal Nagar, Raipur (C.G.)

3 - Commissioner, Higher Education, Directorate Indrawati Bhawan, Nawar Raipur Atal Nagar, Raipur (C.G.)

4 - Principal, Government Rajmohini Devi Girls P.G. College, Ambikapur, District Surguja (C.G.)

Respondent(s)**(Cause-title taken from CIS)**

For Petitioner(s)	: Mr. Manoj Paranjpe, Senior Advocate assisted by Ms. Apoorva Ghore, Advocate
For Resp/State	: Ms. Akanksha Verma, Panel Lawyer
For Resp. No.2	: Dr. Sudeep Agrawal, Advocate

(HON'BLE SHRI JUSTICE BIBHU DATTA GURU)**Order on Board****09.09.2026**

1. By way of this petition under Article 226/227 of the Constitution of India, the petitioner has assailed the order dated 17.02.2025, bearing No. F-1-30/2017/38-1, passed by the Secretary, Department of Higher Education,

Government of Chhattisgarh, whereby the services of the petitioner have been brought to an end on the ground of non-disclosure of his criminal antecedents in the verification form.

2. The petitioner was selected for appointment to the post of Assistant Professor (Commerce) pursuant to Advertisement No. 11/2014. An order of appointment was issued on 05.10.2018 and the petitioner joined service on 10.10.2018. He was posted at Government Rajmohini Devi Girls P.G. College, Ambikapur.

3. The case of the petitioner is that two criminal cases had been registered against him in the year 1994. In one case, arising out of Crime No. 969/1994 under Sections 399 and 402 of the Indian Penal Code, the petitioner faced Session Trial No. 62/1995 and was acquitted by judgment dated 11.12.1997. In the other case, arising out of Crime No. 443/1994 under Sections 324, 147, 323 read with Section 34 of the Indian Penal Code, he was acquitted on 13.11.1995. It is stated that at the relevant time the petitioner was about 17 years of age and studying in Class XI. It is further stated that after the aforesaid criminal proceedings, there was no subsequent criminal case against him and that, in the intervening years, he pursued higher education and obtained, inter alia, the degrees of M.Com., M.Phil. and Ph.D. in Commerce.

4. The grievance of the petitioner is that while submitting the verification form he did not disclose the aforesaid criminal cases in Column No. 12. According to him, the omission was inadvertent. It is further his case that he subsequently submitted an affidavit dated 15.01.2021 disclosing the criminal antecedents and the fact of his acquittal. A show-cause notice dated 07.09.2021 was thereafter issued to him, to which he submitted his reply.

5. (A) Learned Senior counsel for the petitioner would submit that the action of the respondents in terminating the petitioner from service is arbitrary and unsustainable. He submits that the petitioner was selected and appointed on the post of Assistant Professor (Commerce) pursuant to Advertisement No. 11/2014 and, after issuance of the order of appointment dated 05.10.2018, he joined on 10.10.2018 and continued to discharge his duties at Government Rajmohini Devi Girls P.G. College, Ambikapur.

(B) Learned Senior counsel would further submit that the criminal cases relied upon by the respondents relate to the year 1994, when the petitioner was about 17 years of age and studying in Class XI. He submits that in one case registered under Sections 399 and 402 of the Indian Penal Code, the petitioner was acquitted in Session Trial No. 62/1995 by judgment dated 11.12.1997, whereas in the other case registered under Sections 324, 147 and 323 read with Section 34 of the Indian Penal Code, he was acquitted on 13.11.1995. According to learned counsel, the said cases were thus very old and had already come to an end much prior to the petitioner's entry into government service.

(C) Learned Senior counsel would submit that the petitioner has not disputed the registration of the aforesaid criminal cases. He submits that while filling up the verification form, the particulars of the said cases were not mentioned in Column No. 12 and that such omission was inadvertent. According to learned counsel, the non-disclosure was neither deliberate nor intended to conceal the petitioner's criminal antecedents.

(D) He would further submit that the petitioner subsequently submitted an affidavit dated 15.01.2021, wherein the fact regarding the criminal case and his

acquittal was disclosed. He submits that, after issuance of the show-cause notice dated 07.09.2021, the petitioner also submitted his reply dated 15.09.2021 explaining the circumstances in which the cases had not been mentioned in the verification form. Learned counsel submits that the impugned order does not properly consider the aforesaid affidavit and the explanation furnished by the petitioner. It is contended that the impugned order proceeds principally on the fact that the petitioner had not disclosed the criminal cases in the verification form, without considering his age at the time when the cases were registered, the fact that the proceedings had subsequently culminated in acquittal, the considerable passage of time, his subsequent educational qualifications and his conduct during service.

(E) He also submits that after the aforesaid cases, the petitioner pursued his education and obtained higher qualifications, including M.Com., M.Phil. and Ph.D. in Commerce, and was thereafter selected through the regular recruitment process for appointment as Assistant Professor. He submits that the petitioner had rendered more than six years of service before the impugned order came to be passed and that there is no subsequent criminal antecedent alleged against him. He would submit that the respondents have treated the omission in Column No. 12 as sufficient to conclude that the petitioner was unsuitable for government service. According to learned counsel, the respondents were required to consider the entire background of the petitioner and the circumstances in which the omission had occurred, particularly when the criminal cases were of the year 1994 and had already resulted in acquittal long before his appointment.

(F) Learned Senior counsel further submits that merely because the offences

have been described by the respondents as involving moral turpitude, the petitioner's suitability could not have been decided without considering the facts and circumstances in which the cases had arisen and the subsequent conduct of the petitioner. He submits that the nature and age of the cases, the acquittals, the petitioner's age at the relevant time and his subsequent service were all relevant considerations. Reliance has been placed upon the decision rendered by the Supreme Court in the matter of ***Ravindra Kumar v. State of U.P., (2024) 5 SCC 264***, in support of his submission that the issue of suppression of criminal antecedents has to be considered in the facts and circumstances of each case. He further relies upon the judgment of the Division Bench of this Court in ***Prahlad Prasad Rathour v. State of Chhattisgarh & Others, W.A. No. 785 of 2025***, decided on ***03.11.2025***, and submits that the said decision also concerns termination on the basis of non-disclosure of old criminal cases in the character-verification process. He would therefore submit that the impugned order suffers from non-application of mind, as the relevant facts and circumstances were not properly considered while determining the petitioner's suitability. He accordingly prays for quashing of the impugned order dated 17.02.2025 and for a direction to reinstate the petitioner with continuity of service and consequential service benefits.

6. (i) *Per contra*, learned counsel appearing for the State/respondents, while opposing the submissions advanced on behalf of the petitioner, would submit that the petitioner had failed to disclose the criminal cases not only in the verification form but had also furnished an affidavit in the year 2018, wherein the said criminal antecedents were not disclosed. According to learned counsel, the subsequent affidavit relied upon by the petitioner, in which the

criminal cases were disclosed, cannot by itself wipe out or neutralise the earlier non-disclosure. She would submit that the petitioner was specifically required to furnish correct information regarding his criminal antecedents in the verification form and the connected declaration/affidavit. However, despite having been called upon to disclose such information, the petitioner did not mention the criminal cases registered against him. It is contended that the omission was therefore not confined to a solitary entry in Column No. 12 of the verification form.

(ii) Learned counsel would further submit that, during the course of character verification, the aforesaid criminal antecedents came to the notice of the Department through the police authorities. According to the respondents, the offences involved were such as were required to be taken into consideration under the applicable character-verification instructions and, therefore, the competent authority was justified in examining the petitioner's suitability in the light of the said antecedents and the non-disclosure thereof. She further submits that, on receipt of the adverse verification report, a show-cause notice dated 07.09.2021 was issued to the petitioner and the petitioner submitted his reply. It is submitted that, even in the reply, the petitioner did not dispute the fact that the criminal cases had not been disclosed in the verification form. According to learned counsel, the petitioner sought to explain the omission, but such explanation did not absolve him of the obligation to furnish correct and complete information when specifically called upon to do so.

(iii) Learned counsel would submit that the subsequent affidavit in which the petitioner disclosed the criminal cases was taken into consideration, but such subsequent disclosure could not retrospectively make the earlier declaration in

the verification form and the affidavit furnished in 2018 truthful. According to learned counsel, the relevant consideration is that at the time when the petitioner was required to make the declaration, the material information was not disclosed. She would further submit that the fact that the petitioner had subsequently disclosed the criminal antecedents cannot be treated as completely curing the earlier omission, particularly when the disclosure was made only after the issue had arisen during the process of character verification. It is contended that the competent authority was therefore entitled to consider the entire conduct of the petitioner while determining his suitability for government service.

(iv) Learned counsel submits that the acquittal in the criminal cases does not, by itself, absolve the petitioner from his obligation to disclose the fact of registration of the cases when such information was specifically sought. According to learned counsel, the issue is not confined to the ultimate result of the criminal proceedings but also concerns the correctness of the declaration furnished by the petitioner before entering/continuing in government service. She would submit that the Government instructions governing character verification specifically require disclosure of criminal antecedents and provide for consideration of the suitability of a person where such antecedents are discovered during verification. It is contended that the respondents have acted in accordance with the said instructions and the decision of the competent authority cannot be said to be arbitrary merely because the petitioner had subsequently disclosed the said facts.

(v) Learned counsel for the State would fairly submit that the controversy raised in the present case is covered by the principles laid down by the

Supreme Court in *Ravindra Kumar (Supra)*. She would, however, submit that in the present case the petitioner had failed to disclose the criminal cases not only in the verification form but also in the affidavit furnished in the year 2018, and that the subsequent affidavit relied upon by the petitioner, though disclosing the correct facts, would not by itself efface the earlier non-disclosure. Hence, she prays that the writ petition be dismissed.

7. Learned counsel appearing for respondent No. 2/Chhattisgarh Public Service Commission is formal in nature and submits that the Commission has no independent submission to make on the merits of the dispute.

8. I have considered the rival submissions and perused the material placed before this Court.

9. The fact that the petitioner did not disclose the criminal cases in Column No. 12 of the verification form is not in dispute. The respondents have also relied upon an affidavit furnished by the petitioner in the year 2018, wherein, according to them, the said criminal antecedents were likewise not disclosed. It is, therefore, necessary to examine the effect of such non-disclosure in the facts and circumstances of the present case. In the present case, the criminal cases relied upon by the respondents pertain to the year 1994. It is the case of the petitioner that at the relevant time he was about 17 years of age and was studying in Class XI. One of the cases culminated in acquittal on 13.11.1995 and the other in acquittal on 11.12.1997. The petitioner entered government service only in the year 2018 i.e. after two decades. Thus, by the time he entered service, the criminal proceedings had already come to an end many years earlier.

10. The question before this Court is not whether the respondents were entitled to verify the character and antecedents of the petitioner. They undoubtedly were. The question is whether, after noticing the aforesaid non-disclosure, the competent authority considered the circumstances relevant to the petitioner's suitability in their proper perspective before directing termination of his services.

11. In ***Ravindra Kumar (supra)***, the Supreme Court, while considering the issue of suppression of criminal antecedents, has reiterated that the ultimate action should be based upon objective criteria after due consideration of all relevant aspects. It has further emphasised that the power has to be exercised in a reasonable manner with objectivity and having due regard to the facts of the case. Thus, the Supreme Court has held from paragraph 22 & 24 onwards as under:-

“22. The law on this issue is settled by a three-Judge Bench of this Court in Avtar Singh (Supra). Paras 34, 35, 36 & 38, which sets out the conclusions, are extracted herein below:-

“34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects.

35. Suppression of “material” information presupposes that what is suppressed that “matters” not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for

appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.

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.

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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 supplied)

24. *Avtar Singh (Supra)* also noticed the judgment in *Commissioner of Police and Others Vs. Sandeep Kumar*, (2011) 4 SCC 644. In *Sandeep Kumar (supra)*, this Court set out the story of the character “Jean Valjean” in Victor Hugo’s novel *Les Miserables*, where the character was branded as a thief for stealing a loaf of bread for his hungry family. It also discussed the classic judgment of Lord Denning in *Morris v. Crown Office*, (1970) 2 QB 114 and concluded as follows:-

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

11. As already observed above, youth often commits indiscretions, which are often condoned.

12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.”

25. Thereafter, in *Avtar Singh (supra)* dealing with *Sandeep Kumar (supra)*, this Court observed as under:

“24... ... This Court has observed that suppression related to a case when the age of Sandeep Kumar was about 20 years. He was young and at such age people often commit indiscretions and such indiscretions may often be condoned. The modern approach should be to reform a person instead of branding him a criminal all his life. In [*Morris v. Crown Office*, (1970) 2 QB 114 : (1970) 2 WLR 792 (CA)] , the observations made were that young people are no ordinary criminals. There is no violence, dishonesty or vice in them. They were trying to preserve the Welsh language. Though they have done wrong but we must show mercy on them and

they were permitted to go back to their studies, to their parents and continue the good course.

26. In Ram Kumar vs. State of U.P. and Others, (2011) 14 SCC 709, another case noticed and discussed in Avtar Singh (Supra) arising out of near identical facts and construing a similar clause in the verification form, this Court, while granting relief, held as follows:-

“9. We have carefully read the Government Order dated 28-4-1958 on the subject “Verification of the character and antecedents of government servants before their first appointment” and it is stated in the government order that the Governor has been pleased to lay down the following instructions in supersession of all the previous orders:

“The rule regarding character of candidate for appointment under the State Government shall continue to be as follows:

The character of a candidate for direct appointment must be such as to render him suitable in all respects for employment in the service or post to which he is to be appointed. It would be the duty of the appointing authority to satisfy itself on this point.

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12. On a reading of the order dated 18-7-2002 of the Additional Chief Judicial Magistrate it would show that the sole witness examined before the court, PW 1, Mr Akhilesh Kumar, had deposed before the court that on 2- 12- 2000 at 4.00 p.m. children were quarrelling and at that time the appellant, Shailendra and Ajay Kumar amongst other neighbours had reached there and someone from the crowd

hurled abuses and in the scuffle Akhilesh Kumar got injured when he fell and his head hit a brick platform and that he was not beaten by the accused persons by any sharp weapon. In the absence of any other witness against the appellant, the Additional Chief Judicial Magistrate acquitted the appellant of the charges under Sections 323/34/504 IPC. On these facts, it was not at all possible for the appointing authority to take a view that the appellant was not suitable for appointment to the post of a police constable.

13. The order dated 18-7-2002 of the Additional Chief Judicial Magistrate had been sent along with the report dated 15-1-2007 of Jaswant Nagar Police Station to the Senior Superintendent of Police, Ghaziabad, but it appears from the order dated 8-8-2007 of the Senior Superintendent of Police, Ghaziabad, that he has not gone into the question as to whether the appellant was suitable for appointment to service or to the post of constable in which he was appointed and he has only held that the selection of the appellant was illegal and irregular because he did not furnish in his affidavit in the pro forma of verification roll that a criminal case has been registered against him.

14. As has been stated in the instructions in the Government Order dated 28-4-1958, it was the duty of the Senior Superintendent of Police, Ghaziabad, as the appointing authority, to satisfy himself on the point as to whether the

appellant was suitable for appointment to the post of a constable, with reference to the nature of suppression and nature of the criminal case. Instead of considering whether the appellant was suitable for appointment to the post of male constable, the appointing authority has mechanically held that his selection was irregular and illegal because the appellant had furnished an affidavit stating the facts incorrectly at the time of recruitment.

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17. For the aforesaid reasons, we allow the appeal, set aside the order of the learned Single Judge and the impugned order of the Division Bench and allow the writ petition of the appellant and quash the order dated 8-8- 2007 of the Senior Superintendent of Police, Ghaziabad. The appellant will be taken back in service within a period of two months from today but he will not be entitled to any back wages for the period he has remained out of service. There shall be no order as to costs.” Ram Kumar (supra) was also a case of cancellation of selection to the post of Constable.

27. More recently in Pawan Kumar vs. Union of India and Another, (2022) SCC OnLine SC 532, involving appointment to the post of Constable in Railway Protection Force and setting aside the order of discharge due to alleged suppression in the verification form, this Court, after noticing Avtar Singh (Supra) held as under:

“11. This cannot be disputed that the candidate who

intends to participate in the selection process is always required to furnish correct information relating to his character and antecedents in the verification/attestation form before and after induction into service. It is also equally true that the person who has suppressed the material information or has made false declaration indeed has no unfettered right of seeking appointment or continuity in service, but at least has a right not to be dealt with arbitrarily and power has to be judiciously exercised by the competent authority in a reasonable manner with objectivity having due regard to the facts of the case on hand. It goes without saying that the yardstick/standard which has to be applied with regard to adjudging suitability of the incumbent always depends upon the nature of post, nature of duties, effect of suppression over suitability to be considered by the authority on due diligence of various aspects but no hard and fast rule of thumb can be laid down in this regard.

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13. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into

consideration, while taking appropriate decision regarding continuance/suitability of the employee into service. What being noticed by this Court is that mere suppression of material/false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.

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20. Consequently, the appeal succeeds and is allowed. The judgment of the Division Bench of the High Court dated 17th November, 2015 and the order of discharge dated 24th April, 2015 and dated 23rd December, 2021 are hereby quashed and set aside. The Respondents are directed to reinstate the appellant in service on the post of Constable on which he was selected pursuant to his participation in reference to employment notice no. 1/2011 dated 27th February, 2011. We make it clear that the appellant will not be entitled for the arrears of salary for the period during which he has not served the force and at the same time he will be entitled for all notional benefits, including pay, seniority and other consequential benefits, etc. Necessary orders shall be passed within a period of one month from today. No costs.”

28. In Mohammed Imran vs. State of Maharashtra and Others, (2019) 17 SCC 696, no doubt, a case where a candidate made the disclosure of criminal case, this Court speaking through Navin Sinha, J. made the following telling observation which resonates with the hard realities of everyday existence :

5. Employment opportunities are a scarce commodity in our country. Every advertisement

invites a large number of aspirants for limited number of vacancies. But that may not suffice to invoke sympathy for grant of relief where the credentials of the candidate may raise serious questions regarding suitability, irrespective of eligibility. Undoubtedly, judicial service is very different from other services and the yardstick of suitability that may apply to other services, may not be the same for a judicial service. But there cannot be any mechanical or rhetorical incantation of moral turpitude, to deny appointment in judicial service simpliciter. Much will depend on the facts of a case. Every individual deserves an opportunity to improve, learn from the past and move ahead in life by self-improvement. To make past conduct, irrespective of all considerations, an albatross around the neck of the candidate, may not always constitute justice. Much will, however depend on the fact situation of a case.”

29. *We have also kept in mind the recent judgment of this Court in Satish Chandra Yadav vs. Union of India and Others, (2023) 7 SCC 530 and the broad principles set out by this Court in para 93, especially, paras 93.1, 93.3 & 93.7. Even the broad principles set out therein recognize that each case should be scrutinized thoroughly by the public employer concerned and the Court is obliged to examine whether the procedure of enquiry adopted by the authority concerned was fair and reasonable. Avtar Singh (Supra) in para 38.2 has held that while passing the order of cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information. Further, in para 38.4.3 of Avtar Singh (Supra) the principle that, in*

case of suppression or false information of involvement of criminal case, where acquittal has already been recorded, the employer can still consider all relevant facts available as to antecedents and may take appropriate decision as to the continuance of the employee.

30. *We have read and understood the broad principles laid down in Satish Chandra Yadav (supra) with the following crucial para in Avtar Singh (Supra):*

“35. Suppression of “material” information presupposes that what is suppressed that “matters” not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.”

31. *We have also examined the judgment in Director General of Police, Tamilnadu, Mylapore vs. J. Raghunees, (2023) SCC OnLine SC 1379 and we find that the case of the appellant is more aligned with the facts in the judgment of this Court in Pawan Kumar (supra), Sandeep (supra) and Ram Kumar (supra). Hence, we find that the judgment in J. Raghunees (supra) is clearly distinguishable.*

32. *The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgment of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio economic strata of the*

individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered.

33. Having discussed the legal position above, it is necessary to set out certain special features that obtain in the case at hand.

33.1. The appellant hails from the small village Bagapar, P.O. Kataura, Police Station Gauri Bazar, District Deoria, U.P.

33.2. On the date of the application, there was no criminal case pending and there was no suppression in the application form.

33.3 The criminal case was registered when he was 21 years of age for the offences very similar to the one referred to in Sandeep Kumar (supra) and even in the criminal case he was acquitted.

33.4 No doubt, the multiple columns in the verification affidavit, questions were asked from him in different permutations and combinations. He must have been in a deep dilemma as there was an imminent prospect of losing his employment.

33.5 Most importantly, we find from the verification documents fairly and candidly made available by the learned Additional Advocate General, that the verification report after noticing the criminal case and the subsequent acquittal stated that his character was good, that no complaints were found against him and that his general reputation was good.

33.6. Not stopping there, the person who visited the spot

even wished him a bright future in the report.

33.7 The SHO, Gauri Bazar Police Station, who forwarded the report to the Superintendent of Police after reiterating the contents of the report observed that he was acquitted and no appeal was filed. Further, there was no other case pending and nor was any case registered against the candidate.

33.8 The SHO certified the character of the candidate as excellent and that he was eligible to do Government Service under the State Government. He annexed the report of the Police Station as well as the report of the Gram Pradhan and the Court documents.

33.9 The Superintendent of Police, in his letter to the Commandant, endorsed the report and reiterated that the character of the candidate was excellent.

33.10 While examining whether the procedure adopted for enquiry by the authority was fair and reasonable, we find that the order of cancellation of 12.04.2005 does not even follow the mandate prescribed in Clause 4 of the Form of verification of character set out in the earlier part of this judgment. Like it was found in Ram Kumar (supra) instead of considering whether the appellant was suitable for appointment, the Appointing Authority has mechanically held his selection was irregular and illegal because the appellant had furnished an affidavit with incorrect facts. Hence, even applying the broad principles set out in para 93.7 of Satish Chandra Yadav (supra), we find that the order of cancellation dated 12.04.2005 is neither fair nor reasonable. Clause 9 of the recruitment notification has to be read in the context of the law laid down in the cases set out hereinabove.

34. On the facts of the case and in the backdrop of the

special circumstances set out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can Ravindra Kumar vs State Of U.P. on 22 February, 2024 Indian Kanoon - <http://indiankanoon.org/doc/94536581/> 13 be deemed fatal for the appellant. Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario.

35. For the reasons set out hereinabove, the appeal is allowed and the order of the learned Single Judge and the impugned order of the Division Bench dated 29.10.2010 in Special Appeal No. 896/2005 are set aside. The order of 12.04.2005 of the third respondent, Commandant 27th Battalion, PAC, Sitapur is quashed and set aside. The respondents are directed to appoint the appellant in service on the post of Constable for which he was selected, pursuant to his participation in reference to the Recruitment Notification dated 20.01.2004. We make it clear that the appellant will not be entitled for the arrears of salary for the period during which he has not served the force. At the same time, we direct that the appellant will be entitled for all notional benefits, including pay, seniority and other consequential benefits. Necessary orders shall be passed within a period of four weeks from today. There shall be no order as to costs.

12. It is not in dispute that the petitioner did not disclose the aforesaid

criminal cases in Column No. 12 of the verification form. The respondents have, however, relied not only upon such non-disclosure but also upon an affidavit furnished by the petitioner in the year 2018, wherein, according to them, the said criminal antecedents were likewise not disclosed. The petitioner, on the other hand, relies upon his subsequent affidavit dated 15.01.2021, whereby the criminal antecedents and the orders of acquittal were disclosed.

13. The fact of such non-disclosure, therefore, cannot be brushed aside. The question, however, is not merely whether there was an omission on the part of the petitioner, but whether, in the facts and circumstances of the present case, such omission was sufficient to render him unsuitable for continuance in service and consequently justify the extreme consequence of termination.

14. The criminal cases in question were registered in the year 1994. It is the case of the petitioner that, at the relevant time, he was about 17 years of age and studying in Class XI. In one case, he was acquitted on 13.11.1995 and, in the other, on 11.12.1997. The petitioner came to be appointed as Assistant Professor in the year 2018, i.e. more than two decades after registration of the criminal cases and after the orders of acquittal. Thus, by the time of his entry into Government service, the criminal proceedings had already come to an end many years earlier.

15. The chronology of events assumes significance. After the aforesaid proceedings, the petitioner pursued higher education and obtained, inter alia, M.Com., M.Phil. and Ph.D. in Commerce, and was thereafter selected for appointment as Assistant Professor. The nature and vintage of the antecedents, the age of the petitioner at the relevant time and the considerable passage of

time before his appointment were, therefore, circumstances having a bearing upon the question of his suitability.

16. The fact that the petitioner continued in service for more than six years before the impugned order was passed is also a relevant circumstance. Though length of service, by itself, cannot efface an otherwise established act of suppression, it is nevertheless a circumstance which may be relevant while determining whether the antecedents in question continued to bear upon the petitioner's suitability for continuance in service.

17. The respondents have strongly relied upon the non-disclosure in the affidavit furnished in the year 2018. There can be no dispute that a subsequent disclosure cannot retrospectively make an earlier declaration truthful, nor can it by itself efface an earlier omission. At the same time, the subsequent affidavit dated 15.01.2021 and the explanation furnished by the petitioner in response to the show-cause notice were relevant materials which required consideration while determining the consequence to be attached to the earlier non-disclosure.

18. The distinction between the existence of an omission and the effect of that omission upon suitability is material. The respondents were entitled to take the non-disclosure into account. However, the question whether such omission warranted termination was required to be examined in the context of the nature and vintage of the criminal cases, the age of the petitioner at the relevant time, the orders of acquittal, the long interval preceding his appointment, his subsequent educational and service record and the explanation placed by him before the competent authority.

19. The Government instructions and guidelines governing verification of

character and antecedents, upon which the respondents have relied, are undoubtedly relevant. However, their application has to be considered in the light of the principles laid down by the Supreme Court governing the consequences of suppression of criminal antecedents. The existence of an omission does not, in every case and irrespective of the surrounding circumstances, lead mechanically to termination of service.

20. On examination of the impugned order, however, what is conspicuously absent is a cumulative consideration of the circumstances referred to above. The order records the non-disclosure and proceeds to conclude that the petitioner was not fit for Government service, but it does not disclose a meaningful consideration of the petitioner's age at the time when the cases were registered, the fact that the proceedings had culminated in acquittal long before his appointment, the considerable passage of time, his educational qualifications, his appointment in the year 2018, his subsequent service and the explanation furnished by him.

21. Where the criminal proceedings had long since concluded, particularly where they had culminated in acquittal much prior to the petitioner's entry into service, the mere non-disclosure of such antecedents cannot, by itself, be treated as suppression of material facts warranting termination of service. The effect of such non-disclosure must necessarily be examined in the context of the nature of the cases, the age of the petitioner at the relevant time, the outcome of the proceedings, the passage of time and the bearing, if any, of such antecedents upon his suitability for continuance in service.

22. The mere description of the offences as involving moral turpitude could

not, in the facts of the present case, conclude the question of suitability. The issue was not merely whether the offences could be so described, but whether the antecedents, viewed in their factual setting and in the light of the subsequent conduct of the petitioner, rendered him unsuitable for continuance in the post which he had been occupying.

23. The Division Bench of this Court in **Prahlad Prasad Rathour (supra)**, also considered the effect of old criminal cases which had culminated long before entry into Government service and examined the decision of the employer in the light of the principles enunciated in **Avtar Singh** and **Ravindra Kumar**. The said decision, however, turns upon its own facts and is noticed only to the extent the principle laid down therein bears upon the controversy involved in the present case.

24. The decision in **Prahlad Prasad Rathour** does not lay down that every non-disclosure relating to an old criminal case is liable to be ignored. The consequence of such non-disclosure has to be determined upon an objective assessment of the facts and circumstances of the individual case.

25. Applying the aforesaid principle to the present case, this Court is not persuaded to hold that the subsequent affidavit furnished by the petitioner completely cures or extinguishes the earlier non-disclosure. It does not. Nevertheless, the subsequent disclosure, together with the explanation furnished by the petitioner, his age at the relevant time, the acquittals, the long passage of time and his subsequent service record, constituted relevant circumstances which required consideration while determining the ultimate question of suitability.

26. The power of the employer to verify the antecedents of an incumbent and to take appropriate action in a case of suppression cannot be disputed. What falls for consideration is the manner in which that power has been exercised. The material placed before this Court does not demonstrate that, after noticing the non-disclosure, the competent authority separately and objectively examined whether, having regard to the peculiar facts of the case, the omission was of such a nature as to render the petitioner unsuitable for continuance in service.

27. The distinction between the existence of the power and the manner of its exercise assumes significance in the present case. The former cannot be converted into an automatic consequence of the latter. Even where suppression is established, the employer is required to act reasonably and objectively, upon due consideration of the relevant facts and circumstances governing the individual case.

28. The fact that the petitioner had been acquitted in both the criminal cases does not, by itself, render the antecedents wholly irrelevant. At the same time, the acquittals, the age of the petitioner at the time of registration of the cases, the nature and vintage of the allegations, the long interval before his appointment, the absence of any subsequent criminal case having been brought on record and his subsequent conduct are all circumstances which bear upon the ultimate question of suitability.

29. The Supreme Court in **Ravindra Kumar** (supra) has emphasised that the issue cannot be determined by adopting a uniform approach in every case and that the Court is required to take a holistic view on the basis of objective

criteria. On the facts of the present case, this Court finds that such an assessment was required, but the same is not reflected in the impugned order.

30. It is noteworthy to mention here that the power to take action on the ground of suppression of criminal antecedents must be exercised objectively and reasonably, upon due consideration of all relevant facts and circumstances of the case and such power cannot be exercised arbitrarily or mechanically.

31. In view of the aforesaid conclusion, it is not necessary for this Court to examine in detail the wider submission based upon Article 311 of the Constitution. The impugned order is liable to be interfered with on the independent ground that the decision to terminate the petitioner does not reflect an objective and cumulative consideration of the relevant circumstances bearing upon his suitability.

32. For the reasons aforesaid, the writ petition deserves to be allowed. Accordingly, the order dated 17.02.2025 passed by respondent No. 1/Secretary, Higher Education Department, Government of Chhattisgarh, is hereby quashed. The respondents are directed to reinstate the petitioner in service forthwith. The petitioner shall be entitled to continuity of service for the purpose of seniority. However, having regard to the fact that the petitioner has not actually rendered service during the intervening period pursuant to the impugned order, he shall not be entitled to arrears of salary for the said period.

33. As an upshot, the writ petition is allowed. No cost(s).

Sd/-

(BIBHU DATTA GURU)
JUDGE

Head Note

The power to take action on the ground of suppression of criminal antecedents must be exercised objectively and reasonably, upon due consideration of all relevant facts and circumstances of the case and such power cannot be exercised arbitrarily or mechanically.