



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 8280 of 2026

Suraj Kannaujiya
.....Petitioner(s)
Versus
State Of U.P. And 3 Others
.....Respondent(s)

Counsel for Petitioner(s)	:	Brijesh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE MANISH KUMAR NIGAM, J.

1. Heard Shri Abhay Pratap Singh, learned counsel for the petitioner, learned Standing Counsel for the State-respondents and perused the record.
2. Order reserved.

(Manish Kumar Nigam,J.)

August 10, 2026
Ved Prakash



Reserved On: 10.08.2026
Delivered On: 30.09.2026

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1. This writ petition has been filed for the following reliefs:-

“i Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 26.08.2025 passed by respondent no.3.

ii Issue a writ, order or direction in the nature of Mandamus commanding the respondent no.3 to offer appointment to the petitioner on the post of constable in Civil Police in pursuance of the selection made by the U.P. Police Recruitment and Promotion Board.”

2. Brief facts of the case are that the petitioner appeared in the U.P. Police Constable Civil Police Direct Recruitment, 2023. The result of the written examination was declared, wherein the petitioner was declared successful. Thereafter, the petitioner was called for medical examination by means of letter dated 19.04.2025. The petitioner appeared for the medical examination on the prescribed date and was declared medically fit. Consequently, the petitioner was selected for appointment to the post of Constable, Civil Police and the result was declared on the official

website of respondent No. 2. After the selection of the petitioner, a letter was sent to Police Station Turkpatti, District Kushinagar, for character verification of the petitioner. In pursuance thereof, respondent No. 4 submitted a report dated 16.05.2025, mentioning therein that a case under Section 60 of the Excise Act, being Case Crime No. 12 of 2021 was registered against the petitioner, wherein charge-sheet had been submitted against the petitioner on 04.06.2021 and an NCR No. 139 of 2018 under Sections 323, 504 I.P.C. was also registered against the petitioner. Thereafter, the Superintendent of Police, District Kushinagar, sought further guidance from the District Magistrate, Kushinagar, by means of letter dated 29.05.2025. The District Magistrate, Kushinagar, submitted its report dated 05.06.2025, whereby he did not recommend the candidature of the petitioner for appointment to the post of Constable. Thereafter, respondent No. 3, Superintendent of Police, District- Mau by means of the impugned order dated 26.08.2025, rejected the claim of the petitioner for appointment to the post of Constable. Hence, the present writ petition.

3. In the counter affidavit, it has been stated by the respondents that after selection of the petitioner, the character verification of the petitioner was conducted by the Superintendent of Police, Kushinagar, wherein it was found that Case Crime No. 12 of 2021, under Section 60 of the U.P. Excise Act, and NCR No. 139 of 2018, under Sections 323 and 504 of the I.P.C, were registered against the petitioner. Consequently, the District Magistrate, Kushinagar, found the petitioner unsuitable in the character verification report and the Superintendent of Police, Mau, by means of order dated 26.08.2025, cancelled the candidature of the petitioner. It has been further stated that the Recruitment Board has no role whatsoever in the post-selection process of character verification. In the present case, the action of cancellation of the candidature of the petitioner has been taken by the appointing authority i.e. the Superintendent of Police, Mau.
4. In the rejoinder affidavit, the petitioner has denied the averments made in the counter affidavit and has stated that as per clause 8(2) of the

advertisement only the Recruitment Board has right to cancel the candidature of the petitioner but the impugned order dated 26.08.2025 has been passed by the Superintendent of Police, Mau.

5. Learned counsel for the petitioner submitted that at no point of time, petitioner was supplied with the report submitted by respondent No. 4 dated 16.05.2025 and mere pendency of criminal case cannot be a ground for denying appointment without considering the factual aspect of the matter and recording finding that nature of the offence for which case is pending against the petitioner, is such that candidature of the petitioner is not suitable for being appointed. It has been further submitted that the Government Order dated 28.04.1958 provides for verification and submitted that Note (a) of the Government Order provides that even conviction need not of itself involve the refusal of certificate of a good character, the circumstances of conviction have to be taken into account, and if they involve any moral turpitude or association with the crimes of violence, or with movement which has its object to overthrow by violent means of government as by law now established in free India, mere conviction should not be regarded as disqualification.
6. Learned counsel for the petitioner further submitted in the supplementary affidavit that petitioner has not been served any notice or summon in respect of aforesaid case and only after his knowledge about the pendency of the case in Excise Act, he surrendered himself before the Court and was released on bail on 16.05.2025. Learned counsel for the petitioner relied upon the judgment passed in cases of **Avtar Singh Vs. Union of India and others; (2016) 8 SCC 471, Umesh Chand Vs. State of U.P. and others; 2023 (12) ADJ 702 (DB), Rakesh Kumar Verma Vs. State of U.P. through Principal Secretary, Department of Cane and Sugarcane and others; Writ A No.18090 of 2020; 2026: AHC-LKO: 20743; Anil Kumar Vs. State of Uttar Pradesh and 5 others, Writ A No. 15735 of 2025; 2025:AHC:204592 and Navin Rajhans Vs. State of U.P. and 5 others, Writ A No. 6543 of 2023, Neutral Citation No.-2023:AHC:114199.**

7. *Per contra*, learned Standing Counsel submitted that respondent No. 3, has rejected the case of the petitioner on the ground that two criminal cases are pending against the petitioner and, therefore he is not fit to be appointed in police force, which needs persons of immaculate character and high dignity. Learned counsel for the respondents further submitted once the writ petitioner is suffering from an impediment by way of criminal cases the respondent No. 3, Superintendent of Police, Mau, on considering the inputs submitted by District Magistrate, Kushinagar in terms of circular/Government Order dated 28.04.1958, proceeded to consider the case of the petitioner and has found the petitioner to be unfit for being appointed as Police Constable. It has also been submitted that appointment as being sought is of a disciplined force wherein possession of unblemished character is of paramount consideration and here in the present case, once it was found that F.I.R. has been lodged against the petitioner and criminal trial is pending, post submission of charge sheet, then appointing authority by taking conscious decision has found the petitioner not to be suitable for being considered for grant of appointment. It has also been submitted by learned Standing Counsel that once factum of loss of confidence is there, then it would not be proper and justified to direct the State respondents to grant appointment to the petitioner, particularly when it is admitted case of the petitioner that a criminal trial is pending against him. It has been further submitted by learned Standing Counsel that impugned order has been passed in accordance with law and does not call for any interference by this Court.
8. Reliance has also been placed upon the judgment passed by Hon'ble Supreme Court in the case of **Rajasthan Rajya Vidyut Prasaran Nigam Limited and Another Vs. Anil Kanwariya**, Civil Appeal Nos. 5743-5744 of 2021 decided on 17.09.2021, **Union of India and Others Vs. Methu Meda**, Civil Appeal No. 6238 of 2021 decided on 06.10.2021, **State of Rajasthan and Ors. Vs. Chetan Jeff** reported in AIR 2022 (SC) 2274, **Satish Chandra Yadav Vs. Union of India and Ors.**, Civil Appeal No.- 6955 of 2022 decided on

26.09.2022, Imtiyaz Ahmad Malla Vs. State of Jammu & Kashmir and Others, Special Leave Petition (C) No. 678 of 2021 decided on 28.02.2023 so as to contend that mere disclosure of the criminal case would not be a ground to accord appointment.

9. Before considering the rival submissions, it would be appropriate to consider the relevant statutory provisions as well as Government Orders issued by the Government. The procedure and the manner, according to which, selection is to be made on the post in question is governed by the rules, namely, Uttar Pradesh Police Constable and Head Constable Service Rules, 2015 and amended in the year 2017 enacted in exercise of the power under clause (c) of sub-section (2) of section 46 read with sub-section (3) of the Police Act, 1861. Rule 16 of the above noted rules provides as under:-

"16. Character Verification shall be completed under the supervision of appointing authority before issuing of appointment letter and before sending the candidates for training. Ordinarily character verification shall be completed within a month. On adverse fact coming to light during character verification of any candidate, he shall be declared unfit by the appointing authority and such vacancies shall be carried forward for next selection.

10. Rule 16 provides for character verification before issuance of appointment order and also before sending the candidate for training, and on adverse fact coming in light during character verification of a candidate, he or she shall be declared unfit by the appointing authority, and such vacancy shall be carried forward for next selection, but no criteria or procedure is provided in the said Rule in order to determine as to whether and under which parameter a candidate is to be declared unfit.⁴

11. Learned counsel for the petitioner has invited the attention of the Court towards Government Order dated 28.04.1958 providing for verification of character and antecedents of a government servant before their fresh appointment. Submission of the learned counsel for the petitioner is that in view of note appended to para 3 (a) of Government Order in question, a conviction need not by itself involve the refusal of a

certificate of good character. In a nutshell, the argument is that in the present case there is no order of conviction, but only criminal case has been lodged. Respondent No. 3 has not applied its mind as to whether offence for which petitioner has been charged would be a ground to negate the claim of the petitioner for training and appointment.

12. Both counsel for the petitioner and learned Standing Counsel has relied upon Government Order dated 28.04.1958 to contend that the character verification is to be made under the aforesaid Government Order and the same is occupying the field providing for the modalities of verification of character of antecedents of government servants before their fresh appointment. Paragraph No. 3 of Government Order No.4694-II-B-321-1947 dated 28.04.1958 is being quoted hereinunder:-

"3. (a) Every direct recruit to any service under the Uttar Pradesh Government will be required to produce: (i) A certificate of conduct and character from the head of the educational institution where he last studied (if he went to such an institution). (ii) Certificates of character from two persons. The appointing authority will lay down requirements as to kind of persons from whom it desires these certificates. (b) In cases of doubt, the appointing authority may either ask for further references, or may refer the case to the District Magistrate concerned. The District Magistrate may then make further enquiries as he considers necessary.

Note-- (a) A conviction need not of itself involve the refusal of a certificate of good character. The circumstances of the conviction should be taken into account and if they involve on moral turpitude or association with crimes of violence or with a movement which has its object to overthrow by violent means of Government as by law now established in free India the mere conviction need not be regarded as disqualification.1 (Conviction of a person during his childhood should not necessarily operate as a bar to his entering Government service. The entire circumstances in which his conviction was recorded as well as the circumstances in which he is now placed should be taken into consideration. If he has completely reformed himself on attaining the age of understanding and discretion, mere

conviction in childhood should not operate as a bar to his entering Government service)."

13. Contention of learned counsel for the petitioner is that merely because charge sheet has been submitted against the petitioner in a criminal case and that too the same is pending before the Court and it may take several years to decide the same, therefore it would not be proper to deny the appointment to the petitioner. It has been further submitted that from the perusal of the First Information Report, it is apparent that an F.I.R. was lodged under Section 60 of the Excise Act against the petitioner. The First Information Report against the petitioner is quoted as under:-

"नकल फर्द. फर्द बरामदगी एक जरिकेन में दस लिटर कच्ची अवैध शराब व गिरफ्तार शुदा एक नफर अभियुक्त अन्तर्गत धारा 60 Ex. Act थाना तुर्कपट्टी जनपद कुशीनगर आज दिनांक 30.05.2021 को मैं हे0 का0 पदुमनाथ सिंह व का0 उमेश कुमार देखभाल क्षेत्र में मामूर होकर बगरा चौराहे पर मौजूद था कि मुखवीर खास से सूचना मिली कि एक व्यक्ति पू० मा० विद्यालय बरवा राजा पाकड (बहुरिया टोला) के पास अवैध कच्ची शराब की बिक्री कर रहा है। जल्दी किया जाय तो पकड़ा जा सकता है। मुखवीर की बात का विश्वास करके हम पुलिस वाले मुखवीर को साथ लेकर चल दिये। पू० मा० विद्यालय बरवा राजा पाकड (बहुरिया टोला) के पास पहुँचे तो मुखवीर खास ने उस व्यक्ति की ओर इसारा करके हट बढ़ गया। उस व्यक्ति की नजर हम पुलिस वालो पर पड़ी तो वह भागने लगा उसे हम पुलिस वालो ने पन्द्रह बीस कदम जाते जाते घेरकर पकड़ लिया। पकड़े गये व्यक्ति का नाम पता पुछा गया तो अपना नाम सुरज पुत्र रमेश कन्नौजिया ग्रा० बरवा राजा पाकड (बहुरिया टोला) थाना तुर्कपट्टी जनपद कुशीनगर बताया । पकड़े गये व्यक्ति की जमा तलाशी ली गई तो पकड़े गये व्यक्ति के दाहिने हाथ मे एक सफेद जरिकेन में तरल पदार्थ लगभग दस लिटर बरामद हुआ बरामद शुदा जरिकेन को खोलकर सुंघा गया तो कच्ची शराब की तीक्ष्ण गंध आ रही है। पकड़े गये व्यक्ति से शराब के सम्बन्ध मे अधिकार पत्र तलब किया तो दिखाने में कासिर रहा । उक्त व्यक्ति का यह कृत्य अंतर्गत धारा 60 Ex Act बताकर हिरासत पुलिस मे समय करीब 17.42 बजे में लिया गया। बरामद शुदा कच्ची शराब की जरिकेन को ढक्कन को एक सफेद कपडे मे सर्वशील मोहर कर नमूना मोहर तैयार किया गया । गिरफ्तारी के समय जनता के तमाम लोग इकट्ठा है जिनको गवाही हेतु कहा गया तो भलाई बुराई की बात करते हुए हट बढ़ गये। गिरफ्तारी के समय मानवाधिकार आयोग एवं सर्वोच्च न्यायालय के आदेश एवं निर्देशो का पालन किया जा रहा है। फर्द मौके पर लिखकर पढ़कर सुनाकर सर्व सम्बन्धित के हस्ताक्षर बनवाये जा रहे है । फर्द की एक प्रति अभियुक्त को दी गई। गिरफ्तारी की सूचना अभियुक्त के परिजन को अकब से दी जायेगी। फर्द मौके पर बोल बोलकर का0 उमेश कुमार से लिखवाई गई । हस्ताक्षर हे0 का0 पदुमनाथ सिंह थाना तुर्कपट्टी जनपद कुशीनगर, हस्ताक्षर का० उमेश कुमार, हस्ताक्षर अंग्रेजी में अभियुक्त सूरज नोट फर्द की एक प्रति अभियुक्त को दी गई हस्ताक्षर अंग्रेजी में अभियुक्त सूरज। नोट मैं का0 मु० मुकेश द्विवेदी प्रमाणित करता हूँ कि मेरे द्वारा 'कायमी व नकल फर्द अक्षरशः बोल बोलकर कम्प्यूटर पर टाइप करवाया गया ।"

14. It has also been submitted by learned counsel for the petitioner that District Magistrate, Kushinagar has refused to give character certificate to the petitioner merely on the ground that an F.I.R. has been lodged against the petitioner wherein after investigation a charge sheet has been

submitted and the matter is pending before the court, and has not applied its mind to the relevant provisions of Government Order dated 28.04.1958 to find out whether the conduct of the petitioner is such as the same is not suitable for appointment. It has also been submitted by learned counsel for the petitioner that under the Government Order dated 28.04.1958, even conviction in a criminal case is itself not a ground for refusing the appointment.

15. It has also been submitted that a bare look to the Government Order dated 28.04.1958 would reveal that in cases of doubt, appointing authority may ask for further references or may refer the case to the District Magistrate concerned and the District Magistrate may make further enquiry for the grant of character certificate and Note (a) itself provides that a conviction need not of itself involve the refusal of the certificate of good character. The circumstances of conviction should be taken into account and if they involve any moral turpitude or association with crimes of violence or with movement which has its object to overthrow by violent means of Government as by law now established in free India the mere conviction need not be regarded as disqualification.
16. Thus, it is clear that mere conviction is not a ground for refusal of appointment. In other words, it has been further contended that it can be very well said that consideration is to be made at the end of the appointing authority whether conviction can be a ground for offering or refusing appointment, looking into the facts and circumstances of individual matter.
17. It has also been submitted by learned counsel for the petitioner that in the case in hand, the petitioner has yet not been convicted but merely an F.I.R. has been lodged in which after investigation a charge sheet has been submitted and the petitioner has also been granted bail on 16.05.2025. Therefore, in view of the Government Order dated 28.04.1958, the same cannot be a ground for refusing appointment to the petitioner.

18. In case of Avtar Singh (supra), the Supreme Court, after considering the various judgments of the Hon'ble Supreme Court, summarized its conclusion in paragraph No. 38 of the judgment, which is quoted 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."*

19. In case of **Commissioner of Police and others Vs. Sandeep Kumar,(2011) 4 SCC 644**, the observations made by the Court in paragraph Nos. 8, 9, 10 and 11 are quoted as under:-

" 8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the

matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

9. In this connection, we may refer to the character 'Jean Valjean' in Victor Hugo's novel 'Les Miserables', in which for committing a minor offence of stealing a loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.

10. We may also here refer to the case of Welsh students mentioned by Lord Denning in his book 'Due Process of Law'. It appears that some students of Wales were very enthusiastic about the Welsh language and they were upset because the radio programmes were being broadcast in the English language and not in Welsh. They came up to London and invaded the High Court. They were found guilty of contempt of court and sentenced to prison for three months by the High Court Judge. They filed an appeal before the Court of Appeals. Allowing the appeal, Lord Denning observed :-

"I come now to Mr. Watkin Powell's third point. He says that the sentences were excessive. I do not think they were excessive, at the time they were given and in the circumstances then existing. Here was a deliberate interference with the course of justice in a case which was no concern of theirs. It was necessary for the judge to show - and to show to all students everywhere - that this kind of thing cannot be tolerated. Let students demonstrate, if they please, for the causes in which they believe. Let them make their protests as they will. But they must do it by lawful means and not by unlawful. If they strike at the course of justice in this land - and I speak both for England and Wales - they strike at the roots of society itself, and they bring down that which protects them. It is only by the maintenance of law and order that they are privileged to be students and to study and live in peace. So let them support the law and not strike it down.

But now what is to be done? The law has been vindicated by the sentences which the judge passed on Wednesday of last week. He has shown that law and order must be maintained, and will be maintained. But on this appeal, things are changed. These students here no longer defy the law. They have appealed to this court and shown respect for it. They have already served a week in prison. I do not think it necessary to keep them inside it any longer. These young people are no ordinary criminals. There is no violence, dishonesty or vice in them. On the contrary, there was much that we should applaud. They wish to do all they can to preserve the Welsh language. Well may they be proud of it. It is the language of the bards - of the poets and the singers - more melodious by far than our rough English tongue. On high authority, it should be equal in Wales with English. They have done wrong - very wrong - in going to the extreme they did. But, that having been shown, I think we can, and should, show mercy on them. We should permit them to go back to their studies, to their parents and continue the good course which

they have so wrongly disturbed." [Vide Morris Vs. Crown Office, (1970) 2 Q.B. 114]

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

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

20. In case of **SPO/ Constable IRB Satpal Singh Vs. State of Punjab and others (Civil Appeal No. 9749 of 2016)** decided on 04.08.2026; 2026 INSC 798, in paragraph No. 26, the Supreme Court has held as under:-

"26. Appellant was discharged from service not because of his conviction on a criminal charge but merely on the ground of pendency of the criminal case. He was not given an opportunity of raising his defence. We have not been shown any law which authorises a public employer to either dismiss or remove an employee serving the police for more than a decade solely on the ground of pendency of a criminal case. The act of termination of service, in the circumstances, cannot be justified."

21. In case of **Mohammed Imran Vs. State of Maharashtra and Others; AIR 2018 Supreme Court 4895**, in paragraph Nos. 4 to 9, Hon'ble Supreme Court has held as under:-

"4. Learned counsel for the respondents submitted that the appellant being an aspirant for judicial service, the standards of behaviour and conduct, to consider suitability for appointment will have to be different from any other service. He was involved in an act of moral turpitude in kidnapping of the girl in question. The acquittal, because the prosecutrix turned hostile, cannot come to the aid of the appellant. The candidate referred to, for contending hostile discrimination, was not involved in an act of moral turpitude. Mere empanelment for appointment creates no rights to seek mandamus for appointment. The fact that he may have disclosed the alleged involvement in the attestation form, cannot be considered sufficient to ignore his conduct involving moral turpitude.

5. We have considered the submissions on behalf of the parties. The only allegation against the appellant in Sessions Case No.173 of 2000 is that he along with another was travelling in an autorickshaw that was following the autorickshaw in which the prime accused Bilal, who was charged under Section 376, IPC, was travelling with the girl in question. All the accused

were acquitted because the prosecutrix did not support the allegations. The appellant was 21 years of age on the date of occurrence i.e. 25.05.2000.

6. *Employment opportunities is 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 simplicitor. 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 selfimprovement. 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.*

7. *That the expression “moral turpitude” is not capable of precise definition was considered in Pawan Kumar vs. State of Haryana and another, (1996) 4 SCC 17, opining:*

“12. “Moral turpitude” is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity....”

8. *The appellant by dint of hard academic labour was successful at the competitive examination held on 16.08.2009 and after viva voce was selected and recommended for appointment by the Maharashtra Public Service Commission on 14.10.2009. In his attestation form, he had duly disclosed his prosecution and acquittal. Mere disclosure in an appropriate case may not be sufficient to hold for suitability in employment. Nonetheless the nature of allegations and the conduct in the facts of a case would certainly be a relevant factor. While others so recommended came to be appointed, the selection of the appellant was annulled on 04.06.2010 in view of the character verification report of the police.*

9. *It is an undisputed fact that one Shri Sudhir Gulabrao Barde, who had been acquitted on 24.11.2009 in Case No.3022 of 2007 under Sections 294, 504, 34, IPC, has been appointed. We are not convinced, that in the facts and circumstances of the present case, the appellant could be discriminated and denied appointment arbitrarily when both the appointments were in judicial*

service, by the same selection procedure, of persons who faced criminal prosecutions and were acquitted. The distinction sought to be drawn by the respondents, that the former was not involved in a case of moral turpitude does not leave us convinced. In Joginder Singh (supra), it was observed as follows:

“25. Further, apart from a small dent in the name of this criminal case in which he has been honourably acquitted, there is no other material on record to indicate that the antecedents or the conduct of the Appellant was not up to the mark to appoint him to the post....”

22. I have perused the order impugned. Respondent No. 3 has merely accepted the recommendation of District Magistrate, Kushinagar and Superintendent of Police, Kushinagar and has not independently recorded any finding on the candidature of the petitioner that whether mere pendency of criminal case of trivial nature, it would not be proper to appoint the petitioner as per the Government Order dated 28.04.1958. The appointing authority has to make an independent consideration after considering the reports submitted before them. In the present case no such consideration has been accorded by respondent No. 3. Relevant paragraph of order impugned is quoted as under:-

"अतः प्रकरण में पुलिस आरक्षी नागरिक पुलिस के पदों पर सीधी भर्ती-2023 के अन्तर्गत चयनित अभ्यर्थी सूरज कन्नौजिया पुत्र रमेश प्रसाद रजिस्ट्रेशन नम्बर 12985255 अनुक्रमांक 5381542 निवासी ग्राम व पोस्ट-बरवा राजा पाकड़, थाना तुर्कपट्टी जनपद कुशीनगर पिनकोड-274407 उ०प्र० के विरुद्ध मु०अ० सं० 12/2021 धारा 60 आब० अधि० थाना तुर्कपट्टी जनपद कुशीनगर एवं एन०सी०आर० 139 /2018 धारा 323/504 भादवि थाना तुर्कपट्टी जनपद कुशीनगर पंजीकृत होने के फलस्वरूप जिलाधिकारी कुशीनगर के पत्र संख्या: 3560/न्याय सहा०-2025 दिनांक: 05.06.2025 द्वारा दी गयी अभिमत एवं पुलिस अधीक्षक कुशीनगर द्वारा उपलब्ध कराये गये अनापत्ति में नियुक्ति-पत्र निर्गत किये जाने हेतु अनुपयुक्त पाये जाने के फलस्वरूप इनको अनुपयुक्त घोषित करते हुए इनका चयन/अभ्यर्थन एतद्वारा निरस्त किया जाता है।"

23. This Court may also note that the perusal of the F.I.R. indicates that a case was registered against the petitioner under Section 60 of the Excise Act and there was no independent witness for the seizure made by the Police. The other case relied upon by the respondent is an N.C.R.,

which was never investigated by the police and therefore, cannot be of any use for not issuing character certificate to the petitioner.

24. This Court is conscious of the fact that it is exclusive domain of appointing authority to assess the suitability of candidate and once the suitability of the candidate is assessed on the settled principle of law, this Court should not interfere with the discretion of the appointing authority unless said discretion has been exercised arbitrarily. In the present case, the impugned order is that the same has been passed on the basis of recommendation made by District Magistrate, Kushinagar. Respondent No. 3 has not given any consideration to the nature of charge levelled against the petitioner in F.I.R. and the fact that the F.I.R. has been lodged on 30.05.2021 and more than five years have passed yet trial has not been concluded and the petitioner has also been granted bail on 16.05.2025 in the aforementioned case. In such view of the fact, this Court finds that the petitioner cannot be denied appointment on the basis of criminal case, more so when the order impugned has been passed without application of the mind.

25. In case of Umesh Chand (supra), this Court in paragraph No. 19 has held as under:-

“19. In view of the mandate of the Hon'ble Supreme Court in the case of Avtar Singh (supra), the appointing authority is enjoined to take into consideration the Government Order/instructions/rules applicable to an employee, at the time of taking a decision as to whether mere pendency of a criminal case would be a ground to negate the claim of a candidate for being selected and appointed in public service. The said consideration is absolutely lacking in the order impugned before the writ court and further the Government Order dated 21.04.1958 providing for the modalities for verification of character and antecedents of the Government servants before their first appointment had also not been looked into, thus in the firm opinion of the Court, the matter needs to be re-considered by the appointing authority afresh in the background of the facts available in the case of the writ petitioner.”

26. Judgments relied upon by the learned Chief Standing Counsel in the case of Rajasthan Rajya Vidyut Prasaran Nigam Limited (supra) is a case wherein the employee did not disclose about the factum of pendency of a criminal case which even in fact dis-entitled him to be accorded appointment though he was subsequently acquitted as the question of trust intervened and the employer was held to be legally justified in not continuing the employee in employment. Here in the present case there is no allegation of non-disclosure or concealment , thus the judgment in the case of Rajasthan Rajya Vidyut Prasaran Nigam Limited (supra) is distinguishable. So far as the case of Methu Meda (supra) is concerned the same is relatable to import and impact of acquittal on the basis of benefit of doubt. It was held that for claiming appointment, in a criminal case the acquittal should be honorable and not the benefit of doubt. Similarly the case of Chetan Jeff (supra) is also distinguishable on the facts, particularly when in the said case there was concealment and material suppression of pendency of criminal case, which is lacking the present case at hand. With regard to reliance placed upon by the learned Standing Counsel in the case of Satish Chandra Yadav (supra) is concerned, the same is also not applicable in the present case as in the said case the Hon'ble Apex Court held that acquittal in a criminal case could not automatically make entitled a candidate for appointment to a post as still it would not be open to the employer to consider antecedents whether the candidate concerned is suitable and fit for appointment to the post. The judgment in the case of Imtiyaz Ahmad Malla (supra) is not also applicable as it was a case wherein the candidate suppressed the material fact of pendency of the criminal case.
27. This Court is of the considered opinion that the order impugned cannot be sustained. Accordingly, the writ petition is allowed and the order dated 26.08.2025 passed by respondent No. 3 is set aside.
28. Respondent No. 3 is directed to pass a fresh order after reconsidering the matter in the light of observations made by this Court as well as by the Hon'ble Supreme Court in judgments mentioned herein

above, expeditiously, preferably within a period of two months from the date of production of certified copy of this order.

(Manish Kumar Nigam,J.)

September 30, 2026

Nitika Sri.