



IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: February 29, 2024

+ W.P.(C) 7385/2018

SHRI NOMIL RANA

..... Petitioner

Through: Mr. Ravinder Kumar, Adv.

versus

THE UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Ajay Dignpaul, CGSC with
Mr. Kamal R. Dignpaul, Ms. Ishita
Pathak, Advs. for UOI with
SI Prahlad Devendra and Ct. Lalit,
CISF.
Mr. Sujeet Kumar Mishra,
Mr. Pankaj Balwan and
Mr. Utkarsh, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

V. KAMESWAR RAO, J

1. The present petition has been filed by the petitioner with the following prayers:

“It is, therefore, most respectfully and humbly prayed that this Hon'ble Court may kindly be pleased to set-aside the termination order dated 10.10.2016 and thereby directed the respondents to reinstate the petitioner in service, in the interest of justice.



Any other relief which this Hon'ble Court may deem fit and proper be passed in favour of the petitioner.”

2. It is the case of the petitioner and so contended by Mr. Ravinder Kumar, learned counsel appearing for the petitioner that the petitioner was enrolled in CISF on September 29, 2014 and after completion of his training, he joined as a Constable in the respondents' Force under the Senior Commandant, CISF, Ghaziabad, UP.

3. He submitted that on October 10, 2016 ('impugned order'), the petitioner was terminated from the services of the respondents due to the suppression of a fact related to one case bearing Crime No. 89/2013 under Sections 452/323/324/504 of IPC and Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 ('SC/ST, Act', for short), being pending against him, in his Attestation Form.

4. Being aggrieved by the impugned order, the petitioner made the representation on December 7, 2016, however, it is his case that the same was not considered by the respondents and rejected on April 11, 2017.

5. He submitted that the criminal matter, which was not disclosed in the Attestation Form, was compromised between the parties, even before the joining of the petitioner in the respondents' Force. Pursuant thereto, the father of the petitioner had also moved the quashing petition under Section 482 of Cr.P.C before the High Court of Allahabad bearing no. 9843/2014 titled as *Karan Singh and 3 Others v. State of UP and Another*, Crime No. 89/2013. The High Court of Allahabad was pleased to state that no coercive action shall be taken



against the applicants including the petitioner vide order dated April 7, 2014. Ultimately, the High Court of Allahabad, quashed the entire proceedings, vide order dated October 27, 2014.

6. He submitted that from the aforesaid facts, it is clear that the petitioner was enrolled on September 29, 2014 and through the quashing petition, the aforesaid Criminal Case was stayed by the High Court of Allahabad, on April 7, 2014. Thus, the stay was granted in the Criminal Case five months before the petitioner joined the services of the respondents' Force.

7. It is further his case that the Attestation Form in which the material information related to pending Criminal Case is alleged to have been suppressed by the petitioner, was filled up by some other person and not the petitioner. It only bears the signature of the petitioner and as such nothing was concealed by the petitioner at that time. Moreover, it is his submission that had the person who filled the Attestation Form asked the petitioner about the same, the petitioner would have definitely disclosed it to that person and as such, there is no question of concealment of the material information.

8. It is his submission that though the Crime No. 89/2013 was compromised/stayed and quashed by the High Court of Allahabad vide orders dated April 7, 2014 and October 27, 2014 respectively, however, in case some officials of the respondents had asked the petitioner with regard to pendency of any Criminal Case, the petitioner would have given the details of the same despite the settlement and compromise, having taken place in the said case.

9. Mr. Kumar in support of his submissions, has placed reliance



upon the judgment passed by the Supreme court in the case of *Avtar Singh v. Union of India and Ors., 2016 8 SCC 471*, more particularly, in paragraph 14 of the said judgment.

10. On the other hand, it is the case of the respondents and so contended by Mr. Ajay Digpaul, learned CGSC appearing for the respondents that the petitioner was terminated from the services due to the suppression of the material information in the Attestation Form, more particularly in Column 12 of the said Form, wherein, it was asked from the petitioner to reveal if any case is pending / disposed against him in any court of law at the time of filling up the said Attestation Form. However, the petitioner answered the same by writing 'No', whereas, it was found later on, that at the time of filling the Attestation Form, i.e., on September 26, 2014, there were two criminal cases which were pending against the petitioner: - (1) Criminal Case No. 89/2013 under Sections 452/324/323/504 read with Section 3 (1) of SC/ST Act and (2) NCR No. 109/2014 under Sections 323/504 IPC.

11. He submitted that the petitioner is not entitled to any relief as sought for in the present petition, even though the Criminal Case No. 89/2013 was quashed against the petitioner on October 27, 2014, as at the time of the filling up of the said Attestation Form, the said case was pending against him and as such, the petitioner had suppressed the material information. It is his case that the signing of the undertaking by the petitioner also signifies that he was aware of the information submitted, particularly in Column no.12, as well as about the other contents of the Attestation Form. Moreover, the petitioner also ignored the warning given in the Attestation Form which stipulates that



furnishing of false information or suppression of any material information in the Attestation Form could lead to disqualification of a candidate.

12. He also submitted that though the petitioner was appointed in the respondents' Force on September 29, 2014, however, after his appointment, during the process of character and antecedents verification, the District Magistrate, Baghpat, UP, reported that the Criminal Case being 89/2013, is registered against the petitioner, at PS Doghat. Furthermore, the information regarding non-disclosure of material fact in the Attestation Form was examined by the Standing Screening Committee ('SSC', for short) and it conveyed its decision of the petitioner being found unfit for government service vide order dated October 6, 2016. Accordingly, the petitioner was terminated from the services vide Office Order bearing No. 2258, dated October 10, 2016, after following the due process of law.

13. He further submitted that the petitioner without exhausting the departmental remedies directly filed the writ petition bearing no. 54948/2016, before the High Court of Allahabad challenging his order of termination. However, the same was dismissed by the High Court of Allahabad on the ground of same being beyond the territorial jurisdiction vide order dated November 21, 2016.

14. Thereafter, the petitioner submitted the representation dated December 7, 2016 to DIG, CISF, DAE, ZHQ, Hyderabad. Since, the IG / WS, was competent to dispose the representation, the same was forwarded to IG / WS. The petitioner appeared before the IG /WS and expressed his grievance regarding the termination order. Thereafter, his



representation was rejected being devoid of merits, vide WS Navi Mumbai, Order No. 2841, dated April 11, 2017.

15. He submitted that the petitioner had also submitted the representation dated June 9, 2017 addressed to DG / CISF against the Order No. 2841 dated April 11, 2017 and on the receipt of the said representation vide letter dated July 27, 2017, full facts of the case, para-wise comments on the representation etc. were forwarded directly to FHQ, New Delhi vide letter dated August 3, 2017 for further necessary action.

16. While the earlier representation dated June 9, 2017 was pending consideration, the petitioner submitted another representation dated May 11, 2018, addressed to Sr. Commandant, CISF Unit, DAE, Kalpakkam, wherein, he prayed to set aside the order of termination and for reinstatement in service. The same was sent to DIG, DAE, Hyderabad vide office letter No. 2088 dated May 25, 2018, for necessary action. However, before it was disposed of, the petitioner filed the writ petition before this Court.

17. It is his submission that though the petitioner filed an RTI application to PIO through Director General, CISF, CGO Complex, Lodhi Road, New Delhi seeking copy of the Attestation Form, in this regard, the petitioner was informed that under the provisions of Section 24 of the Right to Information Act, 2005 ('RTI Act', for short), the information sought by him cannot be provided as CISF is an armed Force of the Union and as such, is exempted from providing information except for the cases related to corruption and human rights violation. Therefore, it was informed to the petitioner that the



information sought by him does not fall within the ambit of RTI Act. It was also informed to the petitioner that in case the petitioner is not satisfied with the reply, he may prefer an appeal before the 1st Appellate Authority, i.e., IG, CISF, WS, HQR, Mumbai under Section 19 (1) of the RTI Act within 30 days of the receipt of the reply.

18. He submitted that as a disciplined Force which seeks to maintain high standards of integrity, the suppression of material facts cannot be countenanced.

19. Reliance has been placed upon the judgment of the Supreme Court in the case of *Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav*, (2003) 3 SCC 437, in which the Supreme Court has held the purpose of requiring an employee to furnish information regarding prosecution / conviction etc. in the verification form was to assess his character and antecedents for the purpose of employment and continuation in service and suppression of material information and making a false statement in reply to the queries relating to prosecution and conviction had a clear bearing on the character, conduct and antecedents of the employee. Moreover, where it is found that the employee had suppressed or given false information in regard to the matters which had a bearing on his fitness or suitability to the post, he could be terminated from service during the period of probation without holding any inquiry. He has also relied upon the judgments of the Supreme Court in the cases of *Jainendra Singh v. State of UP through Principal Secretary, Home and Ors.*, (2012) 8 SCC 748 and *Avtar Singh (supra)* to contend the same.

20. Reliance has also been placed upon one of the latest judgments



of the Supreme Court in the case of *Satish Kumar Yadav v. Union of India*, (2023) 7 SCC 536, wherein it has been held that the suppression of material information and making a false statement in the verification form relating to arrest, prosecution, conviction etc. has a clear bearing on the character, conduct and antecedents of the employee. Moreover, if it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post he can be terminated from service.

21. In the rejoinder submissions, it is contended by Mr. Kumar that the Criminal Case in question was registered against the petitioner and his family members by their neighbours on trivial issues and thereafter the matter was settled with the complainant. As such, the petitioner and his parents filed the petition bearing no. 9843/2014 under Section 482 Cr.P.C before the High Court of Allahabad for quashing the FIR and after issuance of notice vide order dated April 7, 2014, the FIR was subsequently quashed on October 27, 2014. He submitted, since the matter was settled with the complainant in the year 2013, there was no question of the concealment in the Attestation Form by the petitioner.

22. Moreover, he submitted that the petitioner was terminated from the services without giving any notice or opportunity of being heard, whereas the Rules 25(2) and 26(4) of the Central Industrial Security Force Rules, 2001, ('CISF Rules, 2001', for short) provide that during the probation period, if a member of the Force is found to be not fit for permanent appointment, the appointing authority may discharge a member from Force only after giving one month's notice. However, in the present case, the respondent did not follow the Rules 25 and 26 of



the CISF Rules, 2001.

23. He submitted that NCR bearing no. 109/2014 under Sections 323/504 IPC though registered at PS- Doghat against the petitioner, the same was related to a matrimonial dispute between the brother and sister-in-law of the petitioner and was also settled between the parties on February 15, 2015. Moreover, on the day of alleged incident, the petitioner was on duty and thus, the petitioner intentionally and deliberately did not conceal about the said NCR. Also, the said NCR was entirely not in the knowledge of the petitioner.

24. Suffice to state, on January 24, 2023, the respondents were given six weeks time to file an additional affidavit to show that the services of the petitioner were not terminated without the issuance of any show-cause notice. In the additional affidavit, filed by the respondents, it is stated that in sub-rule (2) of the Rule 25 of the 'CISF Rules, 2001', it is stipulated that if during the period of probation, the appointing authority is of the opinion that a member of the Force is not fit for permanent appointment, the appointing authority may discharge him or terminate the services from the Force after issuance of notice of one month or after giving one month's pay in lieu of such notice. It is the submission of Mr. Digpaul that the case of the petitioner was, accordingly, dealt with in pursuance of the aforesaid Rules and as such, the petitioner was given one month's pay and terminal benefits in lieu of such notice. Thus, he prays for the dismissal of the present petition.

25. Mr. Digpaul would justify the impugned action of the respondents by drawing our attention to the Attestation Form filled by the petitioner by stating that admittedly, the Criminal Case No.89/2013



was registered against the petitioner in the year 2013, whereas the petitioner had filled the Attestation Form on September 26, 2014, which according to him, manifests that on the date of filling of the Attestation Form, the Criminal Case No.89/2013 under Sections 452/324/323/504 IPC read with 3(1) SC/ST Act had already registered against him. According to Mr. Digpaul, the quashing petition filed by the petitioner seeking quashing of the Criminal Case was disposed of only on October 27, 2014. Therefore, it is clear that on the date when the Attestation Form was filled by the petitioner, wherein against the question “*is any case pending against you in any Court of law at the time of filling up of this attestation form*”, the petitioner has replied ‘No’. The petitioner has concealed the material information about the registration of a Criminal Case against him.

ANALYSIS

26. Having heard the learned counsel for the parties and perused the record, the short issue which arises for consideration is whether the respondents are justified in passing the impugned order whereby the services of the petitioner were terminated on the ground of suppression of the material information in the Attestation Form filled by the petitioner.

27. It is a matter of fact that the Criminal Case No.89/2013 under Sections 452/324/323/504 IPC read with 3(1) SC/ST Act already stood registered against him when he filled the Attestation Form on September 26, 2014 and the said Criminal Case was quashed only on October 27, 2014. Thus, there can be no denial that the petitioner did in fact conceal the registration of a Criminal Case against him.



28. Though, we may state that the second Criminal Case, i.e., NCR No.109/2014 was registered on November 7, 2014, i.e., after the Attestation Form was filled by the petitioner. In any case, the Criminal Case No. 89/2013 under Sections 452/324/323/504 IPC read with Section 3(1) of SC/ST Act was registered in the year 2013 and the petitioner had already initiated the process of quashing of the said Criminal Case by filing a petition under Section 482 of Cr.P.C. being 9843/2014 (Annexure-P1) before the High Court of Allahabad, wherein an interim order was passed on April 7, 2014. It is therefore clear that the petitioner was aware of those proceedings which were initiated much before the filling up of the Attestation Form and as such there is no reason why the petitioner could not have referred to the said Criminal Case in the Attestation Form. Hence, it is a clear case of concealment of material information by the petitioner, which resulted in his termination by the respondents.

29. Suffice to state, the justification of the petitioner qua non filling of the said Form by him, cannot be accepted for the reason that he has put his signature in conformity with the information given in the Attestation Form which includes the information like his name, father's name, place of residence and also other information as sought in the Attestation Form.

30. Even if the case of the petitioner is that the question pertaining to pendency of any case was not put to him by the person who has filled the Attestation Form, no such stand has been taken in the representations sent to the respondents as the same is not reflected in



the rejection order dated April 11, 2017 passed by the respondents' Force. Surely, a stand of this nature in the present petition must be construed as an afterthought, i.e., only as a ploy to challenge the order of termination. In any case, no affidavit of the person who has filled the Attestation Form has been filed in support of the writ petition.

31. We must also state that a stand has already been taken since the criminal matter was already compromised with the complainant, it was not felt that such an information need to be divulged to the respondents. Surely, this plea is contradictory to the earlier plea taken by the petitioner that the person who has filled Attestation Form did not read to him the following questions:

- i. Have you ever been arrested?
- ii. Have you ever been prosecuted?
- iii. Have you ever been bound down?
- iv. Have you ever been fined by Court of Law?
- v. Have you ever been convicted by a Court of Law for any offence?
- vi. Is any case pending against you in any Court of law at the time of filling up this Attestation Form?

32. Insofar as the plea of violation of principles of natural justice is concerned, there cannot be any dispute that every appointment is subject to character and antecedent verification of an employee and the same exercise is carried out only after the issuance of an appointment letter. The Attestation Form filled by the petitioner clearly states the furnishing of false information or suppression of any factual information may lead to a disqualification and may also render a



candidate unfit for employment. It also states, if a candidate is detained, convicted, debarred etc. subsequent to the completion and submission of the Form, the details should be communicated immediately to the Authority to whom the Attestation Form has been sent earlier, failing which, it will be deemed to be a suppression of factual information. It also states that if the fact that false information has been furnished or suppression of any factual information in the Attestation Form comes to the notice at any time during the service of a person, his services would be liable to be terminated.

33. We also note that Sub-Rule (2) of Rule 25 of the CISF Rules, 2001 contemplates that if during the period of probation, the Appointing Authority is of the opinion that a member of the Force is not fit for permanent appointment, the Appointing Authority may discharge him or terminate the services from the Force after issuance of notice of one month or after giving one month's pay in lieu of such notice. It is not the case of the petitioner that one month's pay in lieu of such notice is not given to him before effecting his termination or that he has not accepted the same. Thereafter, in this manner also, the termination of the petitioner is justified.

34. The law in this regard is well settled and as such, the issue in hand is squarely covered by the judgments of the Supreme Court. It is pertinent to refer to the judgment of the Supreme Court in the case of ***Rajasthan Rajya Vidyut Prasaran Nigam Limited and Another v. Anil Kanwariya, (2021) 10 SCC 136***, post ***Avtar Singh (supra)***, wherein in paragraphs 14 and 15, it has been held as under:

“14. The issue/question may be considered from another



angle, from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment i.e. while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of trust. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right.

15. In view of the aforestated facts and circumstances of the case, both, the learned Division Bench as well as the learned Single Judge have clearly erred in quashing and setting aside the order of termination terminating the services of the respondent on the ground of having obtained an appointment by suppressing material fact and filing a false declaration. The order of reinstatement is wholly untenable and unjustified.”

(emphasis supplied)

35. Mr. Kumar has relied upon the judgment in the case of **Avtar Singh (supra)** more specifically on paragraph 14 of the said judgment to contend that merely because there was concealment of material information, that must not always lead to termination, as the employer



is required to consider *inter alia* various aspects including the nature of employment and the offences for which an employee has been charged in a Criminal Case.

36. Though, the submission to the effect that a person should not be removed outrightly and discretion vested on an employer should not be used arbitrarily looks appealing on a first blush, but in view of the facts of the present case and also the latest opinion of the Supreme Court in the case of *Satish Chandra Yadav(supra)*, wherein in paragraphs 93 to 93.3 and 103 to 105, it has been held as under, the discretion to terminate has been rightly exercised:

“93. In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:

93.1. Each case should be scrutinised thoroughly by the public employer concerned, through its designated officials — more so, in the case of recruitment for the Police Force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security. (See Raj Kumar [State v. Raj Kumar, (2021) 8 SCC 347 : (2021) 2 SCC (L&S) 745])

93.2. Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for appointment to the post.



93.3. The suppression of material information and making a false statement in the verification form relating to arrest, prosecution, conviction, etc. has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.

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103. Ms Madhavi Divan, the learned ASG has rightly relied on Kendriya Vidyalaya Sangathan [Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav, (2003) 3 SCC 437 : 2003 SCC (L&S) 306] in which this Court held that the purpose of requiring an employee to furnish information regarding prosecution/conviction, etc. in the verification form was to assess his character and antecedents for the purpose of employment and continuation in service; that suppression of material information and making a false statement in reply to the queries relating to prosecution and conviction had a clear bearing on the character, conduct and antecedents of the employee; and that where it is found that the employee had suppressed or given false information in regard to the matters which had a bearing on his fitness or suitability to the post, he could be terminated from service during the period of probation without holding any inquiry. This Court also made it clear that neither the gravity of the criminal offence nor the ultimate acquittal therein was relevant when considering whether a probationer who suppresses a material fact (of his being involved in a criminal case, in the personal information furnished to the employer), is fit to be continued as a probationer.

104. We find that the observations in the aforesaid case are fully applicable to the appeal filed by Satish Chandra Yadav. We are of the opinion that it was a deliberate



attempt on the part of the appellant Satish Chandra Yadav to withhold the relevant information and it is this omission which has led to the termination of his service during the probation period.

105. In view of the aforesaid, the appeal arising out of Special Leave Petition (C) No. 20860 of 2019 filed by Satish Chandra Yadav fails and is hereby dismissed.”

(emphasis supplied)

37. It thus, necessarily follows that the respondents are justified in passing the impugned order of termination on the ground of suppression of material information by the petitioner in the Attestation Form.

38. It also follows that the suppression of the material information regarding pendency of Criminal Case by the petitioner, who is seeking appointment to a police post wherein he is required to maintain public order, surely, has a bearing on his suitability to hold the post in question. That apart, it is also not the case of the petitioner that the termination has been actuated by mala fide on the part of the respondents' Force. Therefore, the action of the respondents terminating the services of the petitioner on the ground of suppression of material information regarding pendency of the Criminal Case in the Attestation Form, is justified.

39. In view of our discussion above, we do not see any merit in the present petition. The same is dismissed. No costs.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

FEBRUARY 29, 2024/aky