



2026:AHC-LKO:20743

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 18090 of 2020

A.F.R.

Rakesh Kumar Verma

.....Petitioner(s)

Versus

State Of U.P.Thru Prin.Secy. Deptt. Of Cane And
Sugar And Ors.

.....Respondent(s)

Counsel for Petitioner(s) : Manish Chaudhary, Chandra Prakash
Pal, Deepika Srivastava, Mamta Singh,
Prashant Jaiswal, Rajeiu Kumar Tripathi,
Shivendra Pratap Singh
Counsel for Respondent(s) : C.S.C.

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

Heard learned counsel for the petitioner and learned Standing Counsel for the State.

By means of the present petition, the petitioner has prayed for issuance of a writ of certiorari for quashing the impugned order dated 06.07.2020, whereby the petitioner has been denied appointment to the post of Junior Assistant by respondent No. 2 on the ground that a report was received by the District Collector, Lakhimpur Kheri, vide letter dated 15.03.2019, stating that a criminal case, being Case No. 10659 of 2010 under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of the Dowry Prohibition Act, Police Station Kotwali, District Lakhimpur Kheri, is pending against the petitioner.

Submission of learned counsel for the petitioner is that 3,258 vacancies for the post of Junior Assistant and 18 vacancies for the post of Store Keeper were advertised by the U.P. Subordinate Services Selection Commission. The petitioner applied for the post of Junior Assistant, was declared successful, and was thereafter allotted the Department of Cane and Sugar Commissioner, U.P. through the online Department Allotment System. A revised allotment letter issued by the Commission is on record as Annexure No. 4.

It is further submitted that respondent No. 2, vide letter dated 12.02.2019, referred the petitioner to the Chief Medical Officer, Lakhimpur Kheri, for medical examination, and the petitioner was found medically fit, as per report dated 18.02.2019.

It is submitted that prior to the advertisement, a matrimonial dispute arose between the petitioner's elder brother, Chandra Pal, and his wife, Kamini, in relation to which an FIR being Case Crime No. 5467 of 2007 under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of the Dowry Prohibition Act was lodged, wherein the petitioner was implicated as a co-accused. It is submitted that, in compliance with Clauses 15(9) and 15(14) of Advertisement No. 04/2016, the petitioner had duly disclosed the pendency of the said criminal case.

After allotment, the petitioner submitted a representation before respondent No. 2, which was decided on 20.05.2020 (Annexure No. 1), whereby the petitioner was denied appointment solely on the ground of pendency of the aforesaid criminal case, in which the petitioner is only a co-accused and his elder brother is the main accused.

Learned Standing Counsel opposed the petition and submitted that due to the pendency of the criminal case, the petitioner was not found suitable for government service, and his candidature was rightly rejected in view of his criminal antecedents as revealed in verification.

Perused the record.

A perusal of the impugned order (Annexure No. 1) shows that, except for the pendency of the aforesaid criminal case, which was duly disclosed by the petitioner in terms of Clauses 15(9) and 15(14) of Advertisement No. 04/2016, no adverse material has been found against the petitioner. The petitioner has also been found medically fit. The impugned order, therefore, appears to have been passed solely on account of the pendency of the said criminal case.

The Hon'ble Supreme Court in ***Avtar Singh v. Union of India***, reported in **(2016) 8 SCC 471**, while considering the issue of pending criminal cases at the stage of recruitment, laid down guidelines in paragraph 38, which is as under:-

"38. We have noticed various decisions and tried to explain and reconcile

them as far as possible. In view of the aforesaid discussion, we summarise our conclusion thus:

38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted:

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

38.9. In case the employee is confirmed in service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11. Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him."

In paragraph 38.6, it has been held that where a candidate has truthfully disclosed the pendency of a criminal case of trivial nature, the employer, in the facts and circumstances of the case, may, in its discretion, appoint the candidate subject to the outcome of such case.

In the present case, it is not disputed that the petitioner has truthfully disclosed the pendency of the criminal case in terms of the relevant clauses of the advertisement. It is also evident that the present case arises out of a solitary incident wherein the FIR has been lodged primarily against the petitioner's elder brother, who is the main accused, and the petitioner, along

with other family members, has been implicated as a co-accused. A perusal of the FIR indicates that only general and sweeping allegations have been made regarding demand of dowry against all the family members, without assigning any specific role to the petitioner. The offences alleged are punishable under Sections 498-A, 323, 504, 506 IPC and Section 3/4 of the Dowry Prohibition Act, which, though cognizable, do not, in the facts of the present case, appear to be of such gravity so as to render the petitioner unsuitable for public employment. The allegations, on the face of record, appear to be trivial in nature and arise out of a domestic dispute, having no bearing on the discharge of duties attached to the post in question.

In this regard, the Hon'ble Supreme Court in **Avtar Singh v. Union of India (supra)**, while referring to **Commissioner of Police v. Sandeep Kumar**, has observed in paragraphs 8 and 9 that youthful indiscretions and minor offences ought not to result in branding a person as a criminal for life, and that the approach should be reformatory rather than punitive. The Court illustrated this principle by referring to the character "Jean Valjean" from Victor Hugo's novel *Les Misérables*, emphasizing that minor infractions, particularly those arising from personal or family circumstances, deserve to be condoned rather than resulting in lifelong adverse consequences.

Applying the aforesaid principles to the facts of the present case, this Court finds that the pendency of the criminal case, based on general allegations arising out of a matrimonial dispute, does not constitute a valid ground to deny appointment to the petitioner.

In view of the law laid down by the Hon'ble Supreme Court in the aforesaid case, the impugned order dated 06.07.2020 (Annexure No. 1) is hereby quashed.

Respondent No. 2 is directed to issue the appointment letter to the petitioner forthwith. However, such appointment shall be subject to the outcome of the criminal trial/appeal, if any.

Accordingly, the writ petition is **allowed**.

March 23, 2026

Vinay/-

(Karunesh Singh Pawar, J.)