

**2026 LiveLaw (SC) 399**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

**AHSANUDDIN AMANULLAH; J., N.V. ANJARIA; J.**

APRIL 20, 2026

SPECIAL LEAVE PETITIONS (CIVIL) NOS.11145-11146 OF 2025

**STATE OF UTTAR PRADESH AND ORS. *versus* AJAY KUMAR MALIK**

**Service Law – Recruitment – Basic Eligibility and Medical Fitness – Police Constable – Suppression of Material Facts / *Suppressio Veri and Suggestio Falsi* – Lack of eligibility goes to the root of the matter – An appointment wrongly made cannot be sustained once the factum of ineligibility comes to light – A candidate claiming parity or applying for consideration of their case for appointment must clearly disclose and spell out all material factors, including medical fitness - The Supreme Court set aside the judgments of the High Court and the State Public Services Tribunal which had interfered with the termination of a Police Constable who suffered from a 'knock knee deformity' - The respondent's initial selection in 2005 was cancelled in 2007 after a Medical Board found him medically unfit due to knock knees - After a series of litigations arising out of en-masse cancellations of the recruitment drive, the respondent sought and obtained provisional reinstatement in 2013 by claiming parity with another candidate (*Nitin Kumar Upadhyay*), without disclosing his own medical unfitness - Supreme Court observed that the respondent was well aware that his appointment had previously been cancelled on the very ground of being medically unfit - Failing to disclose this to the appointing authority amounts to deliberate suppression (*suppressio veri and suggestio falsi*) because such disclosure would have disentitled him from even being considered for the post - Supreme Court rejected the technical argument that the departmental proceedings incorrectly cited 'colour blindness' instead of 'knock knees' - It held that a technical defect in the charges does not permit a person with one disqualifying medical deformity to join service merely because they do not suffer from a different deformity listed in the notice - Lack of basic eligibility goes to the root of the matter, and an appointment wrongly made cannot be sustained once ineligibility on the relevant date comes to light. [Relied on *Vishnu Vardhan v. State of Uttar Pradesh*, 2025 SCC OnLine SC 1505; Paras 18-22]**

*For Petitioner(s) Ms. Ruchira Goel, AOR Ms. Veera Mahuli, Adv. Mr. Sharanya, Adv. Ms. Ritika Rao, Adv.*

*For Respondent(s) Mr. Akshit Pradhan, AOR Mr. Utkarsh Malviya, Adv. Mr. Yogesh Verma, Adv.*

**J U D G M E N T**

**AHSANUDDIN AMANULLAH, J.**

Heard learned counsel for the parties.

2. Leave granted.

3. The instant appeals arise from the Final Order and Judgment dated 18.09.2023 in Writ-A No.6974 of 2021 [**2023:AHC:179750-DB**] and Order dated 12.04.2024 in Civil Misc. Review Application No.74 of 2024 (hereinafter collectively referred to as the 'Impugned Judgments') passed by a learned Division Bench of the High Court of Judicature at Allahabad (hereinafter referred to as the 'High Court'). By way of the Impugned Judgments, the High Court has: (a) upheld the Judgment dated 11.02.2021 passed by the State Public Services Tribunal, Lucknow, (hereinafter referred to as the 'Services Tribunal') in Claim Petition No.515 of 2018 (***Ajay Kumar Malik v State of U.P.***

*and Ors.*), and; (b) dismissed the review application against the Judgment dated 18.09.2023. Through its Order *supra*, the Services Tribunal interfered with the concurrent Orders of three authorities *viz.* Superintendent of Police, Jalaun (Appellant No.4) dated 17.05.2017; the Appellate Authority (Deputy Inspector General of Police, Jhansi Range, Jhansi) dated 23.10.2017, and; Revisional Authority (Additional Director General of Police, Kanpur Zone, Kanpur) [Appellant No.3] dated 12.01.2018. These three authorities had directed the termination from service of the Respondent. The Services Tribunal also directed reinstatement of the Respondent with all consequential benefits, except back wages from termination till reinstatement.

### **FACTUAL BACKGROUND:**

4. The story begins in 2005, when 51 Recruitment Boards of the Appellant No.1-State of Uttar Pradesh conducted selections for the posts of Constable in the Uttar Pradesh Police, pursuant to which the Respondent, *inter alios*, was selected for the said post. He was subsequently posted in District Jalaun.

5. In view of the chequered and litigious history of the case at hand, for the sake of convenience, subsequent events are noted below:

### **DATE EVENT**

2007 Several complaints were received alleging largescale irregularities in the concerned selection process(es) through which the Respondent and others were selected. Pursuant to such complaints, a 4-Member Inquiry Committee headed by Shailaja Kant Mishra was constituted by Appellant No.1.

29.06.2007 *Dehors* the above, separate complaints alleging that medically unfit candidates had been recruited, were received by the above-mentioned Committee. This led the Director-General of Police to issue directions for a Medical Board to be constituted.

01.09.2007 Apropos medical re-test, another medical examination of some candidates was held. Here, the Respondent alongwith other recruits, was found unfit. The Respondent was found to have a '*knock knee deformity*' and thus declared unfit.

08.09.2007 Hence, the Respondent's appointment was cancelled on the ground of being medically unfit.

2007 Aggrieved by the aforesaid action of the Appellants cancelling their appointments, the Respondent, along with others declared medically unfit challenged their termination before the High Court, through **CMWP Nos.46331/2007** and **38199/2007**, the latter being the lead matter, titled ***Ravishankar Yadav v State of UP***.

23.01.2009 ***Ravishankar Yadav*** (*supra*) was disposed of with a direction to constitute a new Medical Board to, again, test the medical fitness of the candidates, with their cases to be reconsidered only if the report by the new Medical Board is in favour of the candidates.

27.01.2009 The new Medical Board was constituted and 14 candidates were re-examined. Its report, once more, found the Respondent medically unfit due to '*presence of knock knee*'.

Pursuant thereto, the Respondent and other similarly-placed candidates were not re-appointed, and the cancellations of their appointments remained intact.

5.1 While the aforesaid transpired, parallely another series of events occurred:

### **DATE EVENT**

September, 2007 The 4-Member Inquiry Committee as constituted *supra*, after its enquiry recommended *en-masse* cancellation of recruitment conducted by 42 out of the 51 Recruitment Boards of the Appellant-State. As could be expected, such *en-masse* cancellation came to be

challenged by the aggrieved recruits before the High Court by way of multiple writ petitions, with the lead case ***Pawan Kumar & Ors. v the State of UP, CMWP No.45645/2007***.

08.12.2008 A learned Single Bench allowed **the CMWP No.45645/2007** and connected matters, setting aside the orders cancelling the appointments *enmasse*.

The Division Bench, where the State had filed Special Appeals against the Order dated 08.12.2008, upheld the same and directed the State to carry out the exercise of segregating the '*tainted*' and '*untainted*' candidates.

May, 2009 The State laid a challenge to the order of the Division Bench in this Court through **SLP (Civil) No.12586/2009 - State of UP & Ors. v Pawan Kumar & Ors.** and connected cases.

25.05.2009 By an interim order, this Court directed that the appointments may be made of the selected candidates, but in the appointment orders, it shall clearly be mentioned that the appointments were provisional and would be subject to the decision in **SLP (Civil) No.12586/2009**.

2011 Several Intervention Applications were filed by candidates found medically unfit (referred to in the first set of events in the table *supra*) in the said SLP pending before this Court.

08.03.2013 The SLP (which became **Civil Appeal No.7152/2009**) was withdrawn by the Appellant-State. As such, the Intervention Applications filed therein were not decided on merits.

5.2 Post-withdrawal of Civil Appeal No.7152/2009, *infra* transpired:

#### **DATE EVENT**

10.09.2013 Relying on the withdrawal of the Civil Appeal above, one of the medically unfit candidates *viz.* Nitin Kumar Upadhyay approached the High Court through **Writ-A No.48557/2013** seeking reinstatement on the claim that similarly-situated candidates, whose appointments were cancelled '*by a general order*' were being reconsidered for appointment and that since his appointment too was cancelled by '*a general order*', his case be considered too.

The High Court allowed this Writ Petition and directed the State to consider Nitin Kumar Upadhyay's case too, in case he fell within the zone of consideration of the policy as applicable to the similarly-situated candidates.

19.10.2013 Pursuant thereto, 6 medically unfit candidates were provisionally reinstated in service.

28.10.2013 Claiming parity with these 6 candidates, the Respondent also sought reinstatement.

09.12.2013 The Respondent was provisionally reinstated.

5.3 After provisional reinstatement, the final leg of events took place, leading up to the present appeals:

#### **DATE EVENT**

19.12.2014 On the claim that provisional appointments were granted to medically unfit candidates, including the Respondent, despite them having been found medically unfit twice, the Appellant-State initiated enquiry against all such candidates, including the Respondent.

06.04.2015 Pursuant to this enquiry, a Preliminary Report/Notice was issued to the Respondent, on the ground that he had obtained employment by concealing the fact relating to his knock-knee deformity, by presenting a misleading interpretation of the interim order of provisional appointment by this Court in the Civil Appeal described hereinbefore.

28.05.2015 Chargesheet was issued against the Respondent

17.05.2017 Based on the findings of the Enquiry Officer and charges having been proved, the Superintendent of Police, Jalaun, through his Final Order terminated the Respondent's services.

23.10.2017 The Respondent challenged the Final Order by way of appeal before the Deputy Inspector General of Police, Jhansi, the Appellate Authority, which confirmed the termination.

12.01.2018 Against these, the Respondent preferred a revision before the Additional Director General of Police, Kanpur Zone. The Revisional Authority refused to interfere.

2018 The Respondent approached the Services Tribunal at Indira Bhawan, Lucknow.

6. As stated *supra*, the Services Tribunal allowed the claim of the Respondent, stating that no evidence existed on the record proving the charges against the Respondent. It further opined that there appeared to have been no misrepresentation of facts by the Respondent in his application seeking reinstatement. The Appellant-State and its instrumentalities, aggrieved by this order of the Services Tribunal, moved the High Court, which dismissed the appeal. The review thereagainst also having failed, the Appellants are before us.

#### **APPELLANTS' SUBMISSIONS:**

7. The argument of learned counsel for the Appellants primarily rested on one principle alone, that fraud unravels everything [***Vishnu Vardhan v State of Uttar Pradesh, 2025 SCC OnLine SC 1505***], and since the very appointment of the Respondent was obtained seeking parity with other candidates who themselves had obtained their appointments through fraud, the appointment of the Respondent too suffered from the same defect. It was pointed out that there is no concept of negative equality under law [***Chandigarh Administration v Jagjit Singh, (1995) 1 SCC 745*** and ***Gursharan Singh v New Delhi Municipal Committee, (1996) 2 SCC 459***].

8. It was submitted that the Respondent was found medically unfit twice and based on this, his appointment had been cancelled. Learned counsel submitted that the cancellation of the Respondent's appointment was independently done before the *en-masse* cancellation carried out pursuant to the suggestions of the 4-Member Inquiry Committee. It was urged that the Respondent misinterpreted the interim Order of this Court directing provisional appointment of candidates, by wrongly claiming that he too was covered by the said Order.

9. Learned counsel submitted that the candidates with whom the Respondent had sought parity, had themselves obtained their appointments by misrepresenting to be beneficiaries of the order of provisional appointment. When such appointment of similarly situated and medically unfit candidates (in particular, one Nitin Kumar Upadhyay) was vitiated, the Respondent's appointment too, would stand vitiated, on the same ground. It was urged that the appeals be allowed.

#### **RESPONDENT'S SUBMISSIONS:**

10. *Au contraire*, learned counsel for the sole Respondent, countered the arguments of the State primarily on the ground that the charge(s) on which the Respondent was terminated was '*concealment of his medical unfitness*' and not his '*medical unfitness*' alone. Charges alleged, of concealment and misrepresentation, both, as per learned counsel for the Respondent stand unproved, as held by the Services Tribunal and the High Court. It was submitted that the Respondent's reappointment in 2013 was with the *bona fide* disclosure of his knock knee deformity, and thus, there arises no occasion for concealment. It was urged that the High Court had examined the issue arising in detail and that this Court, under Article 136 of the Constitution of India, does not normally re-examine evidence or disturb concurrent findings unless it is a case of clear error or gross injustice [***Collector Singh v L.M.L. Ltd., Kanpur, (2015) 2 SCC 410*** and ***Nizam v State of Rajasthan, (2016) 1 SCC 550***].

11. Pointing out the defects in the enquiry procedure, learned counsel would submit that the enquiry stood vitiated as the Enquiry Officer stepped beyond his jurisdiction in suggesting termination as punishment. Further, on these lines, learned counsel submitted that the orders of the Appellate and Revisional Authorities were non-speaking and mechanical. Learned counsel placed reliance on ***M/s Associated Switch Gears and Projects Ltd. v State of U.P., 2024:AHC:12780*** [which relied on/followed ***Commissioner of Customs, Mumbai v Toyo Engineering Ltd., (2006) 7 SCC 592***; ***Commissioner of Central Excise, Bhubaneswar v Champdany Industries Ltd., (2009) 9 SCC 466***; ***Commissioner of Central Excise, Chandigarh v Shital International, (2011) 1 SCC 109***; ***Ramlala v State of U.P., 2023 SCC OnLine All 2479***, and; ***Jitendra Kumar v State of U.P., 2023 SCC OnLine All 2837***] to contend that the authorities cannot travel beyond the Show Cause Notice and it is not allowed to inflict punishment on a ground which does not form part of the Show Cause Notice. It was urged that the termination was premised on a ground not laid in the Show Cause Notice, and the Respondent was deprived of the right to defend himself thereon.

12. The second submission that learned counsel for the Respondent made is that at the time of initial appointment, i.e., on 26.06.2005, the Respondent was medically fit, had no knock knee deformity, and it was only subsequently, during the course of service that he developed knock knees, which was observed through the examination, which ultimately led to his first termination in 2007. Since he developed this deficiency during service, learned counsel submitted that the Respondent is entitled to protection under Section 47(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

13. Thirdly, learned counsel submits that owing to this uneven action of appointment, termination, re-appointment, and re-termination, the Respondent suffered great loss, and is now without any means of livelihood. Learned counsel submits that there are few similarly placed candidates who remain in service, despite disability, owing to the fact that they were medically fit at the time of initial appointment. The Respondent's learned counsel stated that the Appellant is estopped from terminating him as they had, *firstly*, reinstated him with open eyes, and *secondly*, that he was never put to notice regarding his medical unfitness. It was urged that such ground of non-disclosure was never previously urged, before the Services Tribunal or the High Court. It was canvassed that, as such, these appeals should be dismissed with costs in favour of the Respondent.

#### **ANALYSIS, REASONING AND CONCLUSION:**

14. Having considered the matter in-depth, we find merit in the contention of the Appellants. A simple issue has become complex unnecessarily. The crux of the matter is as to whether somebody who is otherwise unfit for even being considered for a post to which he applies, which in the present case is that of a Police Constable, could retain such appointment, once it is found on facts that he was not fulfilling the basic eligibility criteria, in this case apropos medical fitness. Herein, the Respondent applied for and was appointed to the post of Police Constable. A basic requirement, concerning medical fitness, was that an/the applicant should not be having knock knees, which mostly is genetic/hereditary. While this is one aspect of the matter, the sequence of events and, more importantly the conduct of the Respondent, is an important factor which we have to keep in mind while adjudicating the present *lis*.

15. The Appellant-State undertook a state-wide exercise for the recruitment of Police Constables for every district, through 51 distinct Recruitment Boards. On receipt of various

complaints regarding mass irregularities and discrepancies in the entire recruitment process, an inquiry was ordered. After consequent re-verification of recruitments, the State concluded that there indeed were mass discrepancies and irregularities in the entire recruitment process. The State ordered *enmasse* cancellation of recruitments carried out by 42 out of the 51 Recruitment Boards. What followed, predictably, was a great deal of litigation. Many aggrieved persons approached the High Court through Writ Petitions, which ultimately were disposed of by setting aside the *en-masse* cancellation of the recruitments. A Single Bench of the High Court directed that genuine and eligible persons be segregated from the ineligible/tainted persons. This direction, though challenged before the Division Bench, met with rejection, which ultimately led the State to approach this Court by filing SLP(C) No.12586 of 2009. This Court *vide* Order dated 25.05.2009 passed in the said case, as an interim measure, directed that the candidates whose selection was cancelled *en-masse*, may be provisionally appointed, and their appointments would be subject to the final outcome of the petition(s) before this Court.

**16.** However, later, the State withdrew the said case on 08.03.2013. Following the interim direction of this Court *supra* passed in the said case on 25.05.2009, a policy was proposed to reconsider the cases of the candidates whose selection was subjected to *en-masse* cancellation. However, it is worthy to note here that the second round of re-verification that was to be undertaken, i.e., the segregation as had been proposed, was not *qua* the medical fitness of the candidates concerned but rather was on other broad parameters. In this factual light, Nitin Kumar Upadhyay, who the Respondent claims was similarly placed as him, having been terminated on the ground of being medically unfit, filed a representation before the authorities claiming parity with persons whose cases were directed to be reconsidered. Nitin Kumar Upadhyay did not disclose his specific case of being medically unfit. Thus, the authorities, without consideration of the issue of medical fitness, provisionally appointed Nitin Kumar Upadhyay.

**17.** Claiming parity with Nitin Kumar Upadhyay, the Respondent approached the authorities, and sought appointment, without disclosing anything else. This led to his appointment. The question of medical eligibility/fitness was never gone into by the Superintendent of Police, Jalaun.

**18.** However, it transpires that amidst a proceeding before the High Court in a different but related matter, it came to the notice of the authorities that the Respondent had been wrongly recruited as he had not disclosed his medical condition of knock knees. Disciplinary proceedings were initiated against him, which finally led to his services being subjected to termination. This Order of termination was appealed before the Appellate Authority, which upheld it. The Respondent then moved the Revisional Authority, which did not interfere. Against these Orders, the Respondent moved the Services Tribunal which interfered, holding that there was no suppression on part of the Respondent and this could not have been a ground for termination. Challenge to the Judgment of the Services Tribunal by the Appellant failed in the High Court. Review was sought of the High Court's Judgment by the Appellant which also was dismissed.

18.1 We have perused the Judgment dated 11.02.2021 passed by the Services Tribunal carefully. To our minds, the core reasoning of the Services Tribunal is erroneous. A person claiming parity or applying for consideration of his case for appointment has to clearly disclose and spell out all material factors, including medical fitness. It is only thereafter, that the authorities would be obliged to consider the same in accordance with law. However, it is not in dispute that the Respondent never disclosed before the Superintendent of Police, Jalaun District, that he had knock knee. Pausing here, it was

well within the Respondent's knowledge that earlier his appointment was cancelled on this very ground. Unfortunately for the Respondent, we are of the opinion that such act is nothing short of deliberate suppression for the reason that the Respondent was aware that such disclosure, *per se*, would disentitle him from even being considered for the post of Police Constable. Despite this, the Respondent represented himself as being entitled to the said post. This would be an act in the realm of *suppressio veri* and *suggestio falsi*.

**19.** The Court is constrained to note that the Superintendent of Police, Jalaun District has also not acted in the manner a senior officer is, expected, nay obliged to do. The said officer was duty-bound to verify all aspects of eligibility before acceding to the request of the Respondent. This appears to have been totally overlooked by him. It speaks volumes about the manner in which senior officers conduct themselves in the discharge of official duties, especially as regards recruitments to public posts. Lack of sensitivity, responsibility and caution causes immense damage not only to the credibility of the system, as a whole, but militates against public interest, where otherwise eligible persons get ousted by persons who are not eligible.

**20.** Moving on, another contention of the Appellants is that NitinKumar Upadhyay obtained undue advantage by misrepresenting that he was similarly situated to the candidates whose cases were directed to be reconsidered by the High Court inasmuch as in that group, the issue of medical fitness, or otherwise, was never gone into. As per documents on record, Nitin Kumar Upadhyay suffered from colour blindness, whereas the Respondent suffered from knock knee, both conditions being a disqualification for the post in question. Be that as it may, if Nitin Kumar Upadhyay is still in service, his case shall be reconsidered on the touchstone of meeting the prescribed eligibility criteria, including medical fitness. Needless to state, due procedure shall be followed, and he will be given an opportunity of hearing. Further action, if and as warranted, shall be taken basis the outcome of the exercise indicated, positively within three months from date.

**21.** The Division Bench has rather simplistically granted its approval to the Order passed by the Services Tribunal in a routine manner, without considering the intricacies and larger implications of doing so. Any appointment to any public post and more so, in uniformed services has to be examined with a greater sense of responsibility. The scrutiny expected from the High Court as also the Services Tribunal is of a much higher level. Looked at from any angle, it is apparent that the Respondent was medically unfit due to knock knee. The matter ends there. No case-law can come to the Respondent's rescue in such scenario and precedents cited by learned counsel for the Respondent operate in their set of facts. Herein, we have noticed the genesis of the whole controversy and its impact. Nothing further need be stated on this, which is determinative of the merits of the case. Lack of eligibility goes to the root of the matter and appointment, wrongly made, cannot be sustained once the factum of ineligibility, on the relevant date, comes to light.

**22.** Another bothersome aspect is the manner in which the Services Tribunal dealt with the matter. The larger public interest and the proven irregularities in the recruitment process have not been properly appreciated by the Services Tribunal. A technical distinction was sought to be drawn by the Services Tribunal, and affirmed by the High Court, that since the departmental proceedings were initiated on the charges of '*medical unfitness owing to 'colour blindness'*' and '*for presenting false and misleading report about Court orders*', both of which were incorrect as the Respondent never suffered from colour blindness and that he had never committed any positive act to mislead the authorities, the action against him could not be sustained. The purported distinction, while appealing at first blush, pales into insignificance when we pose the most relevant question, namely,

that by their observations, do the Services Tribunal and the High Court mean to suggest that it is permissible for a person with medical deformity 'A', which is enough to disqualify him, join service by answering, rightly, that he does not suffer from medical deformity 'B'? The answer being in the negative, no indulgence is warranted. The Services Tribunal and the High Court lost sight of the fact that the case before them was not just a service/appointment dispute but had emanated from a large-scale recruitment hit by irregularities.

**23.** There is no doubt that the Appellants also grossly failed in performing due diligence and ought to have been more vigilant before reinstating the Respondent. But that cannot come to the Respondent's aid, in the overall background as has been sketched out hereinabove. The Appellants are well-advised to act now to set their house firmly in order, failing which, *in futuro*, coercive orders will follow from this Court.

**24.** In view of the discussions hereinabove, despite the valiant efforts of learned counsel for the Respondent, the Impugned Judgments as also Judgment dated 11.02.2021 passed by the Services Tribunal stand set aside; the termination of the Respondent from the post of Police Constable stands restored. However, in order to balance equities: (i) amounts paid to the Respondent, for the period he has actually worked for, shall not be recovered from him, and; (ii) if any amount remains unpaid for period of actual service, the same shall be paid to him within four weeks from date, failing which it shall carry interest @ 6% *per annum*. These appeals stand allowed in the aforesaid terms.

**POST-SCRIPT:**

**25.** We had granted liberty to the parties to file Written Submissions not exceeding two pages. However, the Appellants' Written Submissions run into five pages. Registry shall treat the same, filed *vide* Document No.261395/2025, as defective and return it; the said document will not form part of the record before this Court.

**26.** The Appellants shall deposit Rs.5,000/- (Rupees Five Thousand) with the Supreme Court Bar Clerks Association Welfare Fund Trust. Proof of deposit be filed within two weeks, failing which the Registry shall place the matter before the Court.

**27.** We refrain from saddling the Respondent with costs.

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