

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Madhuresh Prasad

AND

The Hon'ble Justice Prasenjit Biswas

F.M.A. 697 of 2022

**Union of India & Others
Vs.
Gujjudi Varaprasad**

For the Union of India : Mr. Uttam Basak

For the Respondent : Mr. P.C. Das,
Ms. Soma Chowdhury Bandhu,
Mr. Samartha Ghosh

Heard on : 29.06.2026

Judgment on : 29.06.2026

MADHURESH PRASAD, J.:

1. Heard learned advocate for the Union of India (appellant) and the learned advocate for the respondent/writ petitioner.
2. The Intra Court appeal arises out of a judgment dated 09.12.2021 passed by the Hon'ble Single Bench whereby and whereunder the order of termination

dated 18.10.2016 passed by the writ petitioner's Disciplinary Authority; and the order dated 23.12.2016 passed by the Appellate Authority confirming the order of the Disciplinary Authority was quashed.

3. The factual background leading to filing of the writ petition arises from petitioner's participation in a recruitment process for enrolment of Constables to the respondent Force pursuant to notification inviting applications in the year 2012-2013 by the Staff Selection Commission, New Delhi. The petitioner participated in the various stages and emerged successful. By a letter dated 15.09.2014 he was appointed as a Constable in the respondent Force on probation. In the meantime his attestation form dated 28.09.2014 submitted at the time of appointment was being verified from the authorities concerned.
4. The petitioner was served with a notice of termination dated 18.10.2016 whereby and whereunder he was terminated from service with immediate effect under sub-Rule 2 of Rule 25 and Sub-Rule 4 of Rule 26 of the Central Industrial Security Forces Rules, 2001 ('CISF Rules, 2001' for short). He was also paid one month salary in lieu of the notice period which was deposited in his bank account.
5. The petitioner assailed the order by way of an appeal before the Inspector General of the Force. The appeal was filed on 03.11.2016. The Appellate Authority by an order dated 23.12.2016 found no reason to interfere with the order of the Commandant dated 18.10.2016 and rejected the petitioner's representations/appeal. The order of termination dated 18.10.2016 and the order passed by the Inspector General of the Force on the petitioner's

representation/appeal, which is dated 23.12.2016 was put to challenge by the petitioner in the writ proceeding.

6. It is submitted by the learned advocate for the Union of India that the bare perusal of the verification form itself shows that the petitioner has made a false declaration at the time of availing an appointment. In response to query 12(i) the petitioner has responded:

“(i) Is any case pending against you in any Court of law at the time of filling up this Attestation Form?.....Yes/No” ✓

7. The petitioner was implicated in two criminal cases. However, the declaration was made, as quoted. It is submitted that in the selfsame attestation form, the authorities have mentioned on the very first page as follows:

“If the fact that false information has been furnished or that there has been suppression of any factual information in the Attestation Form comes to notice at any time during the service of a person, his services would be liable to be terminated.”

8. The petitioner, therefore, was conscious of the consequence of making a false declaration in the attestation form. The petitioner's services at the time of issuance of the termination order dated 18.10.2016 was still probationary and, therefore, the authorities rightly resorted to the provisions contained in Rules, 2001 in Rule 25(2) and 26(4) of the CISF Rules, 2001, to terminate the petitioner by giving him one month pay in lieu of notice.
9. The learned advocate has laid emphasis on averments made by the petitioner in his appeal before the Inspector General to submit that the

petitioner's implication in the criminal case/s is an admitted position. He, therefore, submits that the Hon'ble Single Judge has fallen in error by holding that the petitioner was not implicated in a criminal case and that the employer (appellants) have failed to show the petitioner's implication in any criminal case.

10. The learned advocate has relied upon decision of the Hon'ble Supreme Court of India in the case of ***Avtar Singh –Vs.- Union of India and Others*** reported ***in (2016) 8 SCC 471*** and later decision of the Hon'ble Apex Court in the case of ***Satish Chandra Yadav –Vs.- Union of India & Ors.*** reported in ***(2022) 10 S.C.R. 537***. He submits that the consistent view of the Hon'ble Apex Court is that an employee is found to have suppressed or given a false information regarding matter which had a bearing on his fitness or suitability to the post for which he was a candidate, such appointment could be terminated during probation without holding an enquiry. In such circumstance, the fact that the petitioner was subsequently acquitted in the criminal case also is not to be considered as a mitigating circumstance in all cases.
11. Mr. Das, learned advocate for the respondent has taken the Court through the judgment of the Hon'ble Single Judge. It is submitted that the Hon'ble Single Judge has taken into consideration the fact that the petitioner's name (*Gujjidi Varaprasad son of Gujjidi Satyanarayana*) is not mentioned as an accused, in the criminal cases. Name of the accused was mentioned in Crime No. 70/2013, as *Gujjidi Ramakrishna son of Satyam*; and in Crime No. 5/2014, the name of the accused is *Gujjidi Ramakrishna son of*

Satyanaraya. Therefore, there is no question of petitioner's implication in any criminal case so as to invite the consequence of termination by invoking the '*warning*' stated in the Attestation form, extracted above. The Hon'ble Single Judge has allowed an opportunity to the Union of India to establish the identity of the petitioner with reference to the names of accused persons in the two criminal cases. The Union of India miserably failed in establishing the petitioner's identity. Therefore, the Hon'ble Single Judge rightly held the termination order and order passed by the Appellate Authority to be unsustainable.

12. Insofar as the decisions relied upon by the learned advocate for the Union of India, he would submit that there is no occasion for placing reliance on the judgments. The judgments lay down undeniable proposition of law, insofar as the fact that if a candidate makes a false declaration in the attestation form which has bearing on his suitability for recruitment to the post, such candidate would be liable to termination while on probation without any enquiry. In the present case the factual premise for applying the judgments in the case of ***Avtar Singh*** (*supra*) and ***Satish Chandra Yadav*** (*supra*) does not apply, as the petitioner was not accused in the criminal case.
13. We have considered the rival submissions.
14. The clauses of the attestation form, extracted above, are not in dispute. Therefore, if a false declaration was given having a bearing on the suitability of the petitioner for the recruitment, there is no dispute that the writ petitioner was liable to termination under the provisions contained in Rule 25(2) and 26(4) of the CISF Rules, 2001.

15. The issue raised by the writ petitioner before the Writ Court was that he was not an accused in the criminal case, which he allegedly suppressed and based on which the impugned order of termination dated 18.10.2016; and the order passed by the Appellate Authority (Inspector General) dated 23.12.2016 affirming the termination was issued. Therefore, the two orders were unsustainable.
16. We have considered such submission with reference to the material on record before the Writ Court. The petitioner preferred an appeal/representation against his termination order dated 18.10.2016, wherein he stated:

“5. Sir, due to political rivalries in the village I was also made involved in a false Criminal Case with another name by mentioning as if my name is Ramakrishna mentioning S/o. my father's name Satyanarayana. Sir, I am not aware that my name is also included in Criminal Case. Sir, the complaints including all other witnesses have also categorically stated that I have not involved in any Criminal Case that apart since I am not involved in Criminal Case my name is also wrongly mentioned as Gujjidi Ramakrishna. Sir, I am having only one name i.e., Gujjidi Varaprasad, Sir since I am not involved in any Criminal Case and I was falsely implicated in Criminal Case and all the witnesses have given statements that I am not involved case, The Hon'ble Criminal Court, Judicial Magistrate's Court of First Class, At Pathapatnam of Srikakulam District has acquitted me along with other vide judgment dated 21.09.2015 in C.C.No. 49 of 2014 in Crime No. 05 of 2014 and C.C.No.44/2014 in Cr.No. 70 of 2013 of Saravakota Police Station the copies of judgment is here with are enclosed.”

17. Plain reading of the averments made in the appeal shows that the petitioner specifically asserted that he was also made involved in the false Criminal Case with another name. It is not his case before the Authorities that he was not implicated rather it is his case that he was implicated, but by another name. He has also specifically asserted that he along with others was

acquitted by the judgment dated 21.09.2015 passed in C.C. No. 49 of 2014 in Crime No. 5/2014 and C.C. No. 44 of 2014 in Crime No. 70/2013. Both the cases arising out of Saravakota Police Station. In support of his averments that he was acquitted. He has enclosed copies of the judgment.

18. Considering the written assertions made before the Authorities by the petitioner in his representation/appeal dated 03.11.2016, extracted above, we find that the petitioner did not dispute his identity. Therefore, there was no basis for the petitioner to contend before the Writ Court that he was not an accused in the criminal case/s.
19. The Hon'ble Single Judge, in our view, has glossed over this factual position founded on the petitioner's assertion in his representation/appeal dated 03.11.2016. Under the circumstances, we find no basis for the Hon'ble Single Judge to cast an onus upon the Union of India to establish that the petitioner was implicated in the criminal case. The factual and legal premise for interfering with the termination order and the order passed by the Appellate Authority, therefore, in our opinion, is unsustainable.
20. Since the petitioner himself stated about his implication in the criminal cases, but by another name, and also about his acquittal along with others in the said criminal cases, there was no scope for concluding that petitioner was not an accused in the criminal case. Thus, there was no occasion for the Union of India to establish that the writ petitioner was an accused in criminal cases.
21. We find non-mentioning of the fact of pendency of these criminal cases by the petitioner, to be an act of suppression inviting the consequence in terms

of the '*warning*' stated on the Attestation Form, extracted above. The petitioner, therefore, was liable to be terminated under Rule 25(2) and 26(4) of the CISF Rules, 2001. The judgments in the case of ***Avtar Singh*** (*supra*) and ***Satish Chandra Yadav*** (*supra*) relied upon by the learned advocate for the appellants, and discussed above also supports our conclusion.

22. The order of the Hon'ble Single Judge is set aside.

23. The appeal is allowed in these terms.

24. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(MADHURESH PRASAD, J.)

(PRASENJIT BISWAS, J.)