



2026:AHC-LKO:64606

A.F.R.

Reserved On: - August 04, 2026

Delivered On: - September 15, 2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 4845 of 2019

Raju Gangwar

.....Petitioner(s)

Versus

**State Of U.P. Thru Prin.Secy.
Home Lucknow And Ors.**

.....Respondent(s)

Counsel for Petitioner(s) : Kapil Gupta, Ankit Kumar
Trivedi, Arun Kumar Ojha,
Sridhar Awasthi

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

In Chamber

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard Shri Sudeep Seth, learned Senior Advocate assisted by Shri Sridhar Awasthi and Shri Aryan Arora on behalf of petitioner and Shri Sandeep Sharma, learned Standing Counsel on behalf of opposite parties and perused the material available on record.

2. The case of the petitioner lies in a narrow compass. According to the learned Senior Counsel for the petitioner, an advertisement/notification No. PRPB-1(82)/2015 was issued on 29.12.2015 by the Uttar

Pradesh Police Recruitment and Promotion Board (hereinafter referred to as "respondent no.2") for direct recruitment to the posts of Male Police Constable and Constable PAC and the petitioner applied online for the said posts.

3. As per the procedure prescribed in the advertisement, candidates were required to fill the said online application format after registration and submission of fees. The online application form contained a pre-fixed declaration to the effect that, each of the prospective candidates were required to give a declaration that he/she had never been 'convicted' by any Court of law. Further, there was no specific column or provision in the online application form requiring disclosure of a pending criminal case and the answer was to be made only in the form of declaration that the particular candidate was convicted or not. The advertisements also contained a specific provision relating to the said declaration at Clause 7 of the advertisement, wherein it contained certain other instructions, including that a candidate should not have been punished by any Court and that the Board would have the power to cancel the candidature in cases of misconduct, concealment of material facts, pendency of a criminal case, conviction, or presentation of facts in a wrongful manner. However, this clause was not part of the procedure nor any modalities were prescribed for the same in making the online application.

4. As the fact of the present case would be, the petitioner, whose date of birth is 06.11.1996, submitted his online application form on 18.02.2016, when he was about 19 years of age. In the declaration forming part of the online application form, he admittedly stated that he had never been convicted by any Court of law.

5. The petitioner also appeared in the Physical Efficiency Test and subsequently was declared successful, as he admittedly scored 406.67 marks in the OBC category, securing 130th rank in the OBC category and 12054th rank overall, and was within the zone of consideration for selection. As per the advertisement and as a follow-up to his name in the zone of consideration, police verification was required to be conducted from his home district. Apparently, the Superintendent of Police, Pilibhit, issued a letter to the petitioner calling him for medical examination, verification of character and documents. The petitioner appeared for the said purposes. Selected candidates were also required to submit an affidavit in a common proforma for joining. The petitioner submitted such an affidavit in which he made various statements required for recruitment purposes but did not disclose the pendency of a criminal case against him.

6. However, upon the aforesaid police verification of character, it was found that a Case Crime No. 1058 A of 2014 under Sections 323, 325, 504 and 506 of the Indian Penal Code, 1860 was pending against the petitioner at Police Station-Bisalpur, District-Pilibhit and a report in this

regard was submitted by the police. It was also reported that a Trial in the said criminal case was initiated and subsequently concluded, wherein the petitioner was acquitted by judgment and order dated 25.08.2018 passed by the learned Judicial Magistrate, Bisalpur. The judgment of acquittal records that the offence was not proved and that the prosecution witnesses deposed that no such incident had taken place and no offence had been committed. The petitioner was thus given an honorable clean acquittal.

7. Thereafter, the Superintendent of Police, Pilibhit, vide letter dated 01.10.2018, wrote to the Superintendent of Police (Karmik), U.P. Police Headquarters, Allahabad, intimating about the acquittal and seeking suitable directions regarding issuance of the appointment letter. In reply, the Superintendent of Police (Karmik) directed that the opinion of the District Magistrate, Pilibhit, be obtained. After character verification in accordance with the relevant Government Order by the District Magistrate and the Superintendent of Police, Pilibhit, the petitioner was allowed for training at Sitapur.

8. However, by the impugned order dated 02.01.2019, the Superintendent of Police, Sitapur (hereinafter referred to as "respondent no.4"), cancelled the candidature/selection of the petitioner for the post of Constable on the ground that he had criminal antecedents and had concealed the same by making a false declaration. The order referred, *inter alia*, a letter

dated 29.06.2018 of the Police Headquarters and the Government Order dated 28.04.1958. Therefore, being aggrieved by the aforesaid impugned order dated 02.01.2019, the petitioner has challenged the same by way of the present writ petition under Article 226 of the Constitution of India, seeking quashing of the impugned order, as well as commanding the respondents to let the petitioner join the training in terms of the alleged selection.

9. Mr. Seth, learned Senior Counsel appearing for the petitioner has submitted that the impugned order dated 02.01.2019 is arbitrary, illegal and violative of Article 14 of the Constitution of India, as it is a non-speaking, mechanical order that fails to apply the mind to the relevant factors. It has been submitted that the online application form contained only a pre-fixed declaration as to whether the candidate "has never been convicted by any Court of law.", which was to be given in a Yes/No format and there was no scope of providing any explanation relating to pendency of any criminal case in the said online format. According to him, at the time of submission of the online form on 18.02.2016, the petitioner had not been technically convicted; and as such the declaration was therefore factually correct. The learned Senior Counsel has drawn the attention of this Court to the online application form to demonstrate that there was no column or provision in the online application form requiring disclosure of a pending criminal case. He has vehemently submitted that Clause 7 of the advertisement (containing the power to cancel

candidature for concealment or pendency of a criminal case) was not part of the procedure prescribed for filling the online application.

10. The learned Senior Counsel has strenuously submitted that the petitioner was only 19 years of age, when he submitted the online application and was a minor (approximately 17 years) when the F.I.R. was lodged in the year 2014. The offence under Sections 323, 325, 504 and 506 I.P.C. were trivial in nature. In any case, the petitioner has been given acquittal of all the charges on 25.08.2018; wherein the prosecution witnesses have themselves deposed that no such incident had taken place. After character verification the District Magistrate and the Superintendent of Police, Pilibhit, found the petitioner suitable and permitted him to proceed for training at Sitapur, which is not even controverted by the respondent.

11. Learned Senior Counsel has further submitted that the Government Order dated 28.04.1958 (relied upon in the impugned order) has already been construed by the Hon'ble Supreme Court in the case of ***Ram Kumar v. State of U.P.***, reported in **(2011) 14 SCC 709**; in a manner favourable to candidates similarly situated. The appointing authority was under a duty to consider the impact of the alleged suppression on the suitability of the candidate for the post, the nature of the offence, the special circumstances of the case, the age of the petitioner at the time of the offence, and the fact of clean acquittal. According to him, the impugned order fails to

undertake any such exercise and is therefore contrary to the law laid down by the Hon'ble Supreme Court in plethora of cases, including (i) ***Commissioner of Police v. Sandeep Kumar***, reported in **(2011) 4 SCC 644**; (ii) ***Ram Kumar v. State of U.P.***, reported in **(2011) 14 SCC 709**; (iii) ***Avtar Singh v. Union of India***, reported in **(2016) 8 SCC 471 (3-Judge Bench)**; and (iv) ***Pawan Kumar v. Union of India***, reported in **(2023) 12 SCC 317**.

12. Lastly, it has been submitted by the learned Senior Counsel that though mere selection does not create an indefeasible right, yet once a candidate has been selected and found suitable after verification, cancellation of candidature on the sole ground of non-disclosure of a trivial and subsequently cleanly acquitted case, without considering the factors mandated by the Hon'ble Supreme Court, is arbitrary and violative of the doctrine of legitimate expectation. The petitioner is at the threshold of his career and was also undergoing training. The respondents have acted mechanically and have played with his future without due application of mind.

13. *Per contra*, Shri Sandeep Sharma, learned Standing Counsel for the Respondent-State has submitted that the petitioner applied pursuant to the advertisement /notification dated 29.12.2015. According to the learned Standing Counsel, the petitioner was bound by all the conditions contained therein, including Clause 7, which expressly empowered the Board to cancel the candidature of any candidate found involved in

misconduct, concealment of material facts, pendency of a criminal case, or conviction, or for presenting facts in a wrongful manner. It has also been submitted that the petitioner was required to submit a declaration on affidavit affirming that all entries/statements made in the application were true, complete and correct. Serial No. 7 of the declaration carried a binding effect. The petitioner deliberately suppressed the fact of the registered criminal case (Case Crime No. 1058A/2014 under Sections 325, 323, 504 and 506 I.P.C.) both while filling the online form and while tendering the affidavit. The suppression was intentional and made with a view to secure employment in a disciplined force.

14. It has been further submitted that the Letter No. "दस-51-पुलिस भर्ती आरक्षी भर्ती-2015/2018" dated 29.06.2018 issued by U.P. Police Headquarters, Prayagraj, clearly provides that where a criminal case is registered, a charge-sheet has been filed and the Trial is pending, or where any matter relating to moral turpitude is pending and has not been disclosed, the candidature shall be declared invalid. Additionally, the Uttar Pradesh Police Constable and Head Constable Service Rules, 2015 (Rules 5, 15(a)(c)(d) and 19) govern the selection. A candidate for police service must possess impeccable character and integrity. In support of this contention, reliance has been placed on ***State of M.P. v. Parvez Khan***, reported in **(2015) 2 SCC 591**; wherein the Supreme Court held that a person having criminal antecedents is not fit to be recruited to the police force; even an acquittal or

discharge subsequently does not automatically lead to the presumption of complete exoneration.

15. Mr. Sharma, learned Standing Counsel has vehemently submitted that the acquittal dated 25.08.2018 was rendered after the petitioner had already submitted his application form and the supporting affidavit (claimed to have been submitted in June 2018). Subsequent disclosure of the judgment of acquittal or the letter dated 01.10.2018 of the Superintendent of Police, Pilibhit, cannot wipe out the earlier deliberate concealment. It has also been submitted that the standard of scrutiny for appointment to a disciplined force such as the police is higher than that applicable to ordinary civil posts. Mere selection does not confer an indefeasible right to appointment, especially for a person having criminal antecedents.

16. Learned Standing Counsel has also submitted that the judgment in ***Avtar Singh case*** (*supra*) does not assist the case of the petitioner in any manner. Paragraph 30 of the said judgment lays down the propositions that govern the exercise of discretionary power by the employer in cases of suppression. According to him, the present case falls within the category, where the employer is entitled to cancel the candidature. The plea of the petitioner that the non-disclosure was "by mistake" is untenable. The petitioner's casual approach demonstrates a lack of seriousness expected of a candidate seeking entry into the police force. It has been lastly argued that the impugned order was passed after

due consideration of the material on record, the relevant Government instructions and the settled principles of law. Therefore, it suffers from no illegality or arbitrariness.

17. Having heard the learned Counsel for the parties and perused the material on records, this Court is of the considered view that the law on suppression/non-disclosure of criminal antecedents at the time of public employment, and its effect on selection or appointment, is by now well settled and does not admit of a mechanical, one-size-fits-all approach. A 3-Judge Bench of the Hon'ble Supreme Court in the landmark judgment of ***Avtar Singh v. Union of India***, reported in **(2016) 8 SCC 471**; while recognizing the employer's right to verify antecedents and to take a decision based on the verification report, has equally made it clear that the said discretion is not unguided or unfettered. According to the Apex Court, the employer is required to consider, among other things: the nature of the post and the duties attached to it; whether the information required to be furnished is related to a conviction, acquittal or a pending case; whether the candidate was expressly called upon to disclose the fact in question; the nature of the offence as to whether it was grave, or involving moral turpitude, or trivial in nature; the results of the criminal case, i.e., conviction, acquittal, discharge or dismissal, and if acquittal, whether it was honorable/on merits or by extending benefit of doubt; and the socio-economic conditions and the age of the incumbent at the time of the incident. ***Avtar Singh case*** (*supra*) in no uncertain terms declared that it is only after taking all these

germane factors into consideration that the employer can arrive at a decision either to appoint, to refuse appointment, or to terminate services, and any such decision, being amenable to judicial review, must reflect application of mind to these factors; a bald or formulaic order citing suppression, without more, does not meet this standard.

18. This Court notes that even before the ***Avtar Singh case*** (*supra*), the Apex Court in ***Commissioner of Police v. Sandeep Kumar***, reported in **(2011) 4 SCC 644**; was confronted with a similar situation where a young candidate, involved in a trivial altercation resulting in a case registered under Sections 325/34 of the Indian Penal Code, 1860 and which was later compromised, had not disclosed the same at the time of recruitment. The Supreme Court in that case, cautioned against a rigid approach that would render an entire generation of citizen's unemployable for petty indiscretions committed at a young and impressionable age, observing that such an approach defeats rather than serves the ends of the Rule of Law and public interest, since it needlessly closes the door of employment to young persons who may otherwise be perfectly suited for the post. This reasoning applies with equal, if not greater, force to the facts of the present case, where the petitioner was barely about seventeen years of age and a minor, at the time the F.I.R. came to be registered against him.

19. Similarly, in ***Ram Kumar v. State of U.P.***, reported in **(2011) 14 SCC 709**; which specifically construed the

very Government Order dated 28.04.1958 relied upon by the respondents herein, the Hon'ble Supreme Court held that mere involvement in, or pendency of, a criminal case cannot by itself operate as an absolute and automatic disqualification; the nature of the offence, the outcome of the Trial and the surrounding circumstances must be weighed by the competent authority before a candidate is denied appointment on this ground. The Government Order of 1958 was thus read down to require a considered, case-specific determination rather than a blanket bar or a one-size-fits-all approach by the employer.

20. The same approach has been reiterated by the Hon'ble Supreme Court in ***Pawan Kumar v. Union of India***, reported in **(2023) 12 SCC 317**; wherein the Court was concerned with the appointment of a candidate to the post of constable in the Railway Protection Force (R.P.F.). In the said case, the candidate had not disclosed that he had previously been prosecuted for offences under Sections 148, 149, 323, 506, and 356 of the Indian Penal Code, 1860, but had been honourably acquitted. He was subsequently appointed, but was discharged from service when these facts came to light. The Supreme Court reinstated him, relying on the judgment in *Avtar Singh (supra)*, with the following observations:

"10. *It may be noticed that while a recruit is selected and before he is formally appointed, his character/antecedents have to be verified and after due verification if the recruit is found suitable for the post, may be considered for appointment as a member of the force. What is*

required that after the verification of character/antecedents of the recruit has taken place, it presupposes and casts an obligation on the appointing/competent authority to take into consideration as to whether the kind of suppression of alleged information/false declaration holds him suitable for appointment to the force, in terms of Rule 52 of the 1987 RPF Rules.

- 11.** *This cannot be disputed that the candidate who intends to participate in the selection process is always required to furnish correct information relating to his character and antecedents in the verification/attestation form before and after induction into service. It is also equally true that the person who has suppressed the material information or has made false declaration indeed has no unfettered right of seeking appointment or continuity in service, but at least has a right not to be dealt with arbitrarily and power has to be judiciously exercised by the competent authority in a reasonable manner with objectivity having due regard to the facts of the case on hand. It goes without saying that the yardstick/standard which has to be applied with regard to adjudging suitability of the incumbent always depends upon the nature of post, nature of duties, effect of suppression over suitability to be considered by the authority on due diligence of various aspects but no hard-and-fast rule of thumb can be laid down in this regard."*

- 21.** The judgment rendered in the case of **Parvez Khan case** (*supra*) relied upon by the respondents, does not run counter to the above line of authority. It is authority for the limited proposition that an acquittal or discharge does not, by itself, confer an indefeasible right to appointment and that the employer retains a discretion to assess the suitability of a candidate for a disciplined force. It does not, however, dispense with, nor could it,

being a coordinate Bench decision, be read as diluting, the requirement, mandated in ***Avtar Singh case*** (*supra*), (a Three-Judge Bench decision), that such discretion must be exercised upon a consideration of the relevant factors and must be reflected in a reasoned order. ***Parvez Khan case*** (*supra*) is thus an authority on the width of the employer's discretion; it is not an authority dispensing with the duty to exercise that discretion judicially.

22. What emerges from the exposition as laid down by this Court is that by mere suppression of material/false information regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen. At the same time, the effect of suppression of material/false information involving in a criminal case, if any, is left for the employer to consider all the relevant facts and circumstances available as to antecedents and keeping in view the objective criteria and the relevant service rules into consideration, while taking appropriate decision regarding continuance/suitability of the employee into service. What has been noticed by this Court is that mere suppression of material/false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.

23. Tested on the above touchstone, this Court finds that the online application form required the petitioner to declare only that he had never been *convicted* by a Court

of law; a declaration which was true and correct as on the date it was made (i.e. on 18.02.2016), since the petitioner had, at that point, neither been convicted nor even placed on Trial to a conclusion. Admittedly, there was no column in the online format calling upon the candidate to disclose the pendency of a criminal case. Clause 7 of the advertisement, though it speaks of concealment and pendency, formed part of the general conditions of the advertisement, however, apparently the same was not incorporated as a specific query in the prescribed online application procedure. In the absence of a specific query, non-disclosure at the application stage cannot, without more, be equated with a false declaration or deliberate suppression of the kind contemplated in ***Avtar Singh case*** (*supra*).

24. Further, the offence for which the petitioner was facing Trial, under Sections 323, 325, 504 and 506 of the Indian Penal Code, 1860 arises out of a scuffle/quarrel of the kind not uncommon among young persons in rural society, and does not involve moral turpitude, dishonesty or any element that reflects adversely on the petitioner's character so as to render him unfit for the disciplined force.

25. This Court also finds that it is an uncontroverted fact that the petitioner was about seventeen years of age and a minor, at the time the F.I.R. was registered in 2014. Following ***Sandeep Kumar case*** (*supra*), an indiscretion of this nature at such a young age cannot be visited with the civil consequence of being denied a livelihood, more

so when it did not result in conviction. Moreover, it has also come on record that the acquittal dated 25.08.2018 is not a case of benefit of doubt; the Trial Court has recorded in clear terms that the prosecution's own witnesses deposed that no incident had taken place and no offence had been committed. This is, in substance, an honorable and merit-based acquittal, a factor which ***Avtar Singh case*** (*supra*) and ***Pawan Kumar case*** (*supra*) requires to be given due and independent weight, and which weighs decisively in the petitioner's favour.

26. Most significantly, this Court finds that upon receipt of the aforesaid judgment of acquittal, the Superintendent of Police, Pilibhit, sought and obtained directions, pursuant to which fresh character verification was undertaken by the District Magistrate and the Superintendent of Police, Pilibhit, the very authorities charged with assessing suitability under the Government Order dated 28.04.1958, who found the petitioner suitable and cleared him for training. This is not denied by the respondents. The impugned order of respondent no.4 dated 02.01.2019, passed after the acquittal of the petitioner, does not advert to this verification, nor does it record any independent or additional material to depart from it, and does not explain why the considered satisfaction already recorded by the District Magistrate and the Superintendent of Police, Pilibhit, on the earlier round, was liable to be overturned of any viable reason.

27. According to this Court, the impugned order does no more than recite the fact of the criminal case and the two

circulars/Government Order, without discussing the nature of the offence, the age of the petitioner, the result of the Trial, or the subsequent verification by the District Magistrate and Superintendent of Police, Pilibhit. It is, in substance, a non-speaking and mechanical order which fails to satisfy the mandatory requirement of due application of mind laid down in ***Avtar Singh case*** (*supra*), ***Ram Kumar case*** (*supra*), ***Sandeep Kumar case*** (*supra*) and ***Pawan Kumar case*** (*supra*), and is accordingly rendered arbitrary and violative of Article 14 of the Constitution of India.

28. It is well settled that mere selection does not clothe a candidate with an indefeasible right to appointment, and that the standard of scrutiny for recruitment to a disciplined force is undoubtedly higher than for ordinary civil posts. That, however, is not the question here. The question is whether the power to cancel candidature, which is undoubtedly available to the respondents in an appropriate case, has been exercised after due and lawful consideration of the relevant factors, or has been exercised mechanically. For the reasons recorded above, this Court finds that it is the latter. Where, as here, the competent authorities under the Government Order dated 28.04.1958 had themselves, after full knowledge of the criminal case and the acquittal, found the petitioner suitable and permitted him to proceed for training, it was not open to respondent no.4 to reverse that considered satisfaction by a bald, non-speaking order that does not engage with any of the ***Avtar Singh case*** (*supra*) factors.

29. For all the aforesaid cumulative reasons of (i) absence of a specific query in the online application format; (ii) Trivial nature of the offence; (iii) Minor Age of the petitioner at the time of offence; (iv) Nature and effect of the acquittal passed before the Impugned order; (v) Prior favourable exercise of discretion by the competent authority and the various judicial precedents recorded herein above, this Court is of the considered view that the impugned order dated 02.01.2019 is unsustainable in law and deserves to be set aside.

30. In view of the foregoing discussion, the writ petition is ***allowed***. The impugned order dated 02.01.2019 passed by respondent no.4, the Superintendent of Police, Sitapur, is hereby ***quashed***.

31. The respondents are directed to treat the petitioner as validly selected pursuant to advertisement/notification No. PRPB-1(82)/2015 dated 29.12.2015 and to permit him to undergo training and/or to issue the consequential appointment letter/order on the post of Constable Police, in accordance with law, within a period of **eight weeks** from the date of production of a certified copy of this order, without insisting upon reconsideration of the very issue of suppression already addressed above, it being open to the respondents only to verify compliance with any other independent, unrelated eligibility conditions, if any.

32. It is, however, clarified that this order shall not be treated as a precedent in any case involving suppression or non-disclosure of a criminal case, where the offence is grave, involves moral turpitude, or where the candidate stands convicted; this order is confined to the peculiar facts and circumstances noted above.

33. The writ petition is ***allowed*** in the above terms.

34. Pending application(s), if any, stand *disposed of*.

35. There shall be no order as to cost(s).

(Abdhesh Kumar Chaudhary, J.)

September 15, 2026

Anuj Singh