



A.F.R.

Reserved On: 10.08.2026

Delivered On: 28.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 711 of 2026

Ravi Kumar Gupta

.....Petitioner(s)

Versus

State of U.P. and 5 others

.....Respondent(s)

Counsel for Petitioner(s)	: Abhishek Giri, Shaurya Sharma
Counsel for Respondent(s)	: C.S.C.

Court No. - 33

HON'BLE MANISH KUMAR NIGAM, J.

1. This writ petition has been filed for the following reliefs:-

“i) Issue a writ, order or direction in the nature of Certiorari to quash the order dated 25.11.2025 passed by respondent no.3.

ii) Issue a writ order or direction in the nature of Mandamus directing the respondent no.3 to allow the petitioner to join the Joint Training Course (J.T.C.) at Reserve Police Line, Prayagraj Commissionerate, Prayagraj.”

2. Brief facts of the case are that the petitioner appeared in U.P. Police Constable Civil Police Direct Recruitment, 2023. The result of the written examination was declared on 21.11.2024 and the petitioner was selected in written examination. Thereafter, the petitioner was called upon for document verification and physical standard test to be held on 24.01.2025, in which petitioner participated and the result of the same was declared on the website of respondent No. 2, wherein petitioner was placed at serial No. 90 of the select list and was declared fit. Thereafter, the petitioner was directed to appear before the Medical Board on 16.05.2025. The petitioner appeared before the Medical Board

for medical examination and character verification and submitted an affidavit along with other documents disclosing pendency of sole criminal case against him being Case Crime No. 100 of 2022, Police Station Dubhar, District Ballia, under Sections 323, 324, 352, 452 and 504 I.P.C, in which charge sheet has been submitted against the petitioner on 15.11.2022 and the matter was pending before the court. After successfully passing medical examination, petitioner was finally selected. After being selected, petitioner was allotted District Prayagraj for Joint Training Course and was directed to appear before the Reserve Inspector, Reserve Police Line Prayagraj, to start his training program. The petitioner appeared before respondent No. 6 to join the training program, but the same was refused to the petitioner. Despite multiple attempts, no reply was given. The petitioner approached this Court by filing writ petition being Writ A No.15608 of 2025, Ravi Kumar Gupta Vs. State of U.P. and 2 others, which was disposed of by this Court by judgment and order dated 17.10.2025 directing the petitioner to file a comprehensive representation before the Reserve Inspector, Reserve Police Line, Commissionerate, District-Prayagraj and the authorities were directed to decide the claim of the petitioner within two months. In compliance of the judgment and order dated 17.10.2025 passed by this Court in Writ A No. 15608 of 2025, an order dated 25.11.2025 has been passed by respondent No. 3, i.e. Deputy Commissioner of Police, Headquarter, Commissionerate, Prayagraj, District Prayagraj, rejecting the candidature of the petitioner for being appointed as Police Constable, relying upon the letter/ instructions dated 05.04.2025 issued by the Director General of Police as well as Government Order dated 28.4.1958, on the ground that petitioner is involved in a criminal case in which charge sheet has been submitted against the petitioner, therefore, the petitioner is not fit to be appointed as Constable in pursuance of his selection. Hence the present writ petition.

3. In the counter affidavit, stand taken by the respondents is that character verification of the petitioner was done from the permanent address of Police Station-Dubhar, District Ballia, by the Inspector-in-

Charge /Station House Officer Dubhar, District Ballia, and a report dated 13.05.2025 was submitted wherein it was stated that a Case Crime No. 100 of 2022 under Sections 323, 504, 352, 452 and 324 of I.P.C. was registered against the petitioner at Police Station-Dubhar, District Ballia, and after investigation charge sheet has been submitted on 15.11.2022, which is pending consideration in the concerned court. Respondents have also relied upon the instructions given by the Director General of Police, Headquarters, Lucknow, in his letter dated 05.04.2025 and the Government Order dated 28.04.1958. It has also been stated that in pursuance of Government Order dated 28.04.1958, Superintendent of Police Ballia, vide its letter dated 23.05.2025, addressed to District Magistrate Ballia, obtained opinion regarding character verification of the petitioner. The District Magistrate, Ballia, in his opinion dated 13.06.2025, mentioned that Case Crime No. 100 of 2022, under Sections 323, 504, 352, 452 and 324 of I.P.C., was found to be registered against the petitioner, in which, after investigation, charge sheet was submitted. Therefore, the District Magistrate has not recommended character verification. The respondents also obtained legal opinion dated 03.06.2025, given by Joint Director Prosecution, Ballia, to the effect that character of the petitioner has not been verified by District Magistrate, Ballia, as he is involved in a case of moral turpitude. The Superintendent of Police, Ballia again by letter dated 03.07.2025, sent a letter to District Magistrate, Ballia to provide fresh opinion regarding whether the petitioner is suitable or unsuitable for the post of Constable. District Magistrate, Ballia, in his letter dated 11.07.2025, has opined that since the petitioner is involved in a criminal case, it is not legal to verify the character of the petitioner, and therefore respondent No. 3 has passed the order relying upon the report of District Magistrate, Ballia that petitioner is unfit for being appointed as Police Constable.

4. In the rejoinder affidavit, the petitioner has denied the averments made in the counter affidavit.
5. Learned counsel for the petitioner submitted that mere pendency of criminal case cannot be a ground for denying appointment without

considering the factual aspect of the matter and recording finding that nature of the offence for which case is pending against the petitioner is such that candidature of the petitioner is not suitable for being appointed. It has also been submitted by learned counsel for the petitioner that the Government Order dated 28.04.1958 provides for verification and submitted that Note (a) of the Government Order provides that even conviction need not of itself involve the refusal of certificate of a good character, the circumstances of conviction have to be taken into account, and if they involve any moral turpitude or association with the crimes of violence, or with movement which has its object to overthrow by violent means of government as by law now established in free India, mere conviction should not be regarded as disqualification.

6. Learned counsel for the petitioner further submitted that the instructions as given by the Director General of Police, dated 05.04.2025, wherein it has been provided that in case there is a charge sheet submitted in a criminal case, cannot override the provisions of Government Order dated 28.04.1958. Learned counsel for the petitioner relied upon the judgment passed in cases of **Avtar Singh Vs. Union of India and others; (2016) 8 SCC 471, Umesh Chand Vs. State of U.P. and others; 2023 (12) ADJ 702 (DB), Rakesh Kumar Verma Vs. State of U.P. through Principal Secretary, Department of Cane and Sugarcane and others; Writ A No.18090 of 2020; 2026: AHC-LKO: 20743; Anil Kumar Vs. State of Uttar Pradesh and 5 others, Writ A No. 15735 of 2025; 2025:AHC:204592 and Navin Rajhans Vs. State of U.P. and 5 others, Writ A No. 6543 of 2023, Neutral Citation No.- 2023:AHC:114199**. It has been further contended by learned counsel for the petitioner that petitioner has not concealed the pendency of criminal case against him and has duly informed the respondents about the pendency of the aforesaid case.

7. *Per contra*, learned Standing Counsel submitted that respondent No. 3, in the light of law laid down by Hon'ble Supreme Court in case of Avtar Singh (supra), rejected the case of the petitioner and found that charges levelled against the petitioner are heinous in nature and since

due consideration has been given to the fact that charges levelled against the petitioner are grave and serious, therefore he is not fit to be appointed in police force, which needs persons of immaculate character and high dignity. Learned counsel for the respondents further submitted once the writ petitioner is suffering from an impediment by way of a criminal case, the respondent No. 3, Deputy Commissioner of Police, Headquarter, Commissionerate, Prayagraj, District Prayagraj, on considering the inputs submitted by District Magistrate, Ballia in terms of circular/Government Order dated 28.04.1958, proceeded to consider the case of the petitioner and has found the petitioner to be unfit for being appointed as Police Constable. It has also been submitted that appointment as being sought is of a disciplined force wherein possession of unblemished character is of paramount consideration and here in the present case, once it was found that F.I.R. has been lodged against the petitioner and criminal trial is pending, post submission of charge sheet, then appointing authority by taking conscious decision has found the petitioner not to be suitable for being considered for grant of appointment. It has also been submitted by learned Standing Counsel that once factum of loss of confidence is there, then it would not be proper and justified to direct the State respondents to grant appointment to the petitioner, particularly when it is admitted case of the petitioner that a criminal trial is pending against him. It has been further submitted by learned Standing Counsel that disclosure of criminal case in the application form by the petitioner is one thing, but the same cannot be sole ground to accord issuance of appointment order to the petitioner, particularly when, after considering the case of the petitioner in the light of pendency of criminal case, a conscious decision has been taken by respondent No. 3 not to grant the appointment. Lastly, it has been submitted by learned Standing Counsel that impugned order has been passed in accordance with law and does not call for any interference by this Court.

8. Reliance has also been placed upon the judgment passed by Hon'ble Supreme Court in the case of **Rajasthan Rajya Vidyut**

Prasaran Nigam Limited and Another Vs. Anil Kanwariya, Civil Appeal Nos. 5743-5744 of 2021 decided on 17.09.2021, Union of India and Others Vs. Methu Meda, Civil Appeal No. 6238 of 2021 decided on 06.10.2021, State of Rajasthan and Ors. Vs. Chetan Jeff reported in AIR 2022 (SC) 2274, Satish Chandra Yadav Vs. Union of India and Ors., Civil Appeal No.- 6955 of 2022 decided on 26.09.2022, Imtiyaz Ahmad Malla Vs. State of Jammu & Kashmir and Others, Special Leave Petition (C) No. 678 of 2021 decided on 28.02.2023 so as to contend that mere disclosure of the criminal case would not be a ground to accord appointment.

9. Before considering the rival submissions, it would be appropriate to consider the relevant statutory provisions as well as Government Orders issued by the Government. The procedure and the manner, according to which, selection is to be made on the post in question is governed by the rules, namely, Uttar Pradesh Police Constable and Head Constable Service Rules, 2015 and amended in the year 2017 enacted in exercise of the power under clause (c) of sub-section (2) of section 46 read with sub-section (3) of the Police Act, 1861. Rule 16 of the above noted rules provides as under:-

"16. Character Verification shall be completed under the supervision of appointing authority before issuing of appointment letter and before sending the candidates for training. Ordinarily character verification shall be completed within a month. On adverse fact coming to light during character verification of any candidate, he shall be declared unfit by the appointing authority and such vacancies shall be carried forward for next selection."

10. Rule 16 provides for character verification before issuance of appointment order and also before sending the candidate for training, and on adverse fact coming in light during character verification of a candidate, he or she shall be declared unfit by the appointing authority, and such vacancy shall be carried forward for next selection, but no criteria or procedure is provided in the said Rule in order to determine as

to whether and under which parameter a candidate is to be declared unfit.

11. Learned counsel for the petitioner has invited the attention of the Court towards Government Order dated 28.04.1958 providing for verification of character and antecedents of a government servant before their fresh appointment. Submission of the learned counsel for the petitioner is that in view of note appended to para 3 (a) of Government Order in question, a conviction need not by itself involve the refusal of a certificate of good character. In a nutshell, the argument is that in the present case there is no order of conviction, but only criminal case has been lodged, that too not of moral turpitude or heinous crime. Respondent No. 3 has not applied its mind as to whether offence for which petitioner has been charged would be a ground to negate the claim of the petitioner for training and appointment.

12. Both counsel for the petitioner and learned Standing Counsel has relied upon Government Order dated 28.04.1958 to contend that the character verification is to be made under the aforesaid Government Order and the same is occupying the field providing for the modalities of verification of character of antecedents of government servants before their fresh appointment. Paragraph No. 3 of Government Order No.4694-II-B-321-1947 dated 28.04.1958 is being quoted hereinunder:-

"3. (a) Every direct recruit to any service under the Uttar Pradesh Government will be required to produce: (i) A certificate of conduct and character from the head of the educational institution where he last studied (if he went to such an institution). (ii) Certificates of character from two persons. The appointing authority will lay down requirements as to kind of persons from whom it desires these certificates. (b) In cases of doubt, the appointing authority may either ask for further references, or may refer the case to the District Magistrate concerned. The District Magistrate may then make further enquiries as he considers necessary.

Note-- (a) A conviction need not of itself involve the refusal of a certificate of good character. The circumstances of the conviction should be taken into account and if they involve on moral turpitude or association with crimes of violence or with a movement which has its object to overthrow by violent

means of Government as by law now established in free India the mere conviction need not be regarded as disqualification.1 (Conviction of a person during his childhood should not necessarily operate as a bar to his entering Government service. The entire circumstances in which his conviction was recorded as well as the circumstances in which he is now placed should be taken into consideration. If he has completely reformed himself on attaining the age of understanding and discretion, mere conviction in childhood should not operate as a bar to his entering Government service)."

13. Paragraph No. 34 (ja) of Letter No. Das-26-2023, dated 05.04.2025, issued by Director General of Police Headquarters, Lucknow, Uttar Pradesh relied upon by learned Standing Counsel as well as by the respondents in the order impugned, is also quoted as under:-

"मुख्यालय पुलिस महानिदेशक उत्तर प्रदेश लखनऊ के पत्र संख्या: दस-26-2023 दिनांक: 05.04.2025 द्वारा दिये गये निर्देशों के बिन्दु संख्या -34(ज) में उल्लेखित किया गया है कि

"(ज) यदि अभ्यर्थी के विरुद्ध अपराधिक मामले पंजीकृत हुए हैं, अथवा ऐसे पंजीकृत मामले विवचेना से उनके विरुद्ध आरोप-पत्र प्रेषित होकर विचाराधीन न्यायालय है या किसी अपराधिक मामले में धारा -169 दण्ड प्रक्रिया संहिता के अन्तर्गत रिहा हुए हैं या भारत सरकार/राज्य सरकार अथवा सार्वजनिक उद्यम व संस्थान से सेवा से विमुक्त किये गये हैं अथवा नैतिक अधमता के किसी अपराध के लिए दोषसिद्ध हुए हैं छिपाया गया है, अथवा गुमराह किया गया है तो ऐसा करने के लिए अभ्यर्थी को नियमानुसार अनुपयुक्त (UNFIT) घोषित किया जायेगा और उसका अभ्यर्थन समाप्त कर दिया जायेगा, जिस पर अभ्यर्थी का कोई दावा नहीं होगा। इसके साथ ही ऐसे अभ्यर्थी के विरुद्ध उचित वैधानिक कार्यवाही भी अमल में लायी जायेगी, यदि अभ्यर्थी के विरुद्ध पंजीकृत अभियोग में मा० सक्षम न्यायालय के निर्णय/आदेश में दोषसिद्ध अथवा दोषमुक्त किया जाता है तो शासनादेश संख्या: 4694/II-B-321-1947, दिनांक: 28.04.1958 में विहित प्रावधानों के अनुसार ऐसे प्रत्येक मामले को जनपद के पुलिस आयुक्त/ वरिष्ठ पुलिस अधीक्षक एवं पुलिस अधीक्षक, जिस जिले में अभियोग पंजीकृत हुआ था, उस जनपद के जिला मजिस्ट्रेट को सन्दर्भित करेंगे और सम्बन्धित अभ्यर्थी के पुलिस आरक्षी के पद पर भर्ती के लिए उपयुक्त होने अथवा उपयुक्त नहीं होने के सम्बन्ध में उनकी सुस्पष्ट संस्तुति/अभिमत प्राप्त करेंगे, जिसके अनुसार ऐसे अभ्यर्थी की नियुक्ति के बारे में जनपद के पुलिस आयुक्त/वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक सुविचारित निर्णय लेंगे।"

14. Contention of learned counsel for the petitioner is that petitioner has disclosed the pendency of criminal case and has not concealed the same. Merely because charge sheet has been submitted against the petitioner in a criminal case and that too the same is pending before the Court and it may take several years to decide the same, therefore it would not be proper to deny the appointment to the petitioner. It has been further submitted that from the perusal of the First Information Report, which is annexed at page No. 48 of the writ petition, it is apparent that no specific role has been assigned to the petitioner in an alleged fight between the complainant and the family members of the petitioner. The allegations are general in nature and respondent No. 3 has not considered this aspect of the matter while rejecting the candidature of the petitioner. The First Information Report against the petitioner is quoted as under:-

"नकल तहरीर हिन्दी वादी सेवा में थानाध्यक्ष महोदय थाना दुबहर बलिया महोदय निवेदन है कि मैव प्रार्थी उदयभानु शुक्ल पुत्र श्री राजेन्द्र शुक्ल ग्राम पाण्डेयपुर जनाड़ी थाना दुबहर जिला बलिया के निवासी हूँ। दरवाजे पर गाय और बाछी का नाद है जिसके बगल में निम्न का घर है। बाछी के द्वारा पवन गुप्ता पुत्र दीपनारायण गुप्ता को चोट लगा जो कि अपने घर जा रहे थे वैसे में उनका उलाहना देने घर पर सुनियोजित तरीका से आये और मारपीट करने के लिए लाठी-डंडा तथा धारदार हथियार से लैस होकर हमला कर दिए मेरे पुत्र राजीव कृष्ण शुक्ल पुत्र उदयभानु शुक्ल और सुनीता शुक्ल पत्नी उदयभानु शुक्ल को मारकर बुरी तरह से घायल कर दिये और घर में घुस कर गाली गलौज तथा मारपीट कर चोटिल कर दिए जिसमें पवन गुप्ता पु० दीपनारायण गुप्ता, रवि गुप्ता पु० दीपनारायण गुप्ता, अमित गुप्ता (मुनीब) पु० सत्यनारायण गुप्ता व सत्यानारायण गुप्ता पु० स्व० रामहोशिला गुप्ता शामिल थे । अतः श्रीमान जी से अनुरोध है कि उक्त घटना को ध्यान में रखते हुए मेरे जान-माल और सम्मान की रक्षा करे। प्रार्थी हस्ताक्षर अंग्रेजी अपठनीय"

15. Learned counsel for the petitioner relied upon the judgment in case of Avtar Singh (supra) and has submitted that in paragraph No. 38(6) of the aforementioned judgment, it has been held by the Supreme Court that 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. It has also been submitted by learned counsel for the petitioner that District Magistrate, Ballia has refused to give character certificate to the petitioner merely on the ground that an F.I.R. has been lodged against the petitioner wherein after investigation a charge sheet has been submitted and the matter is pending before the court, on the basis of instructions issued by the Director General of Police dated 05.04.2025 and has not applied its mind to the relevant provisions of Government Order dated 28.04.1958 to find out whether the conduct of the petitioner is such as the same is not suitable for appointment. It has also been submitted by learned counsel for the petitioner that under the Government Order dated 28.04.1958, even conviction in a criminal case is itself not a ground for refusing the appointment.

16. It has also been submitted that a bare look to the Government Order dated 28.04.1958 would reveal that in cases of doubt, appointing authority may ask for further references or may refer the case to the District Magistrate concerned and the District Magistrate may make further enquiry for the grant of character certificate and Note (a) itself provides that a conviction need not of itself involve the refusal of the certificate of good character. The circumstances of conviction should be taken into account and if they involve any moral turpitude or association with crimes of violence or with movement which has its object to overthrow by violent means of Government as by law now established in free India the mere conviction need not be regarded as disqualification.
17. Thus, it is clear that mere conviction is not a ground for refusal of appointment. In other words, it has been further contended that it can be very well said that consideration is to be made at the end of the appointing authority whether conviction can be a ground for offering or refusing appointment, looking into the facts and circumstances of individual matter.
18. It has also been submitted by learned counsel for the petitioner that in the case in hand, the petitioner has yet not been convicted but

merely an F.I.R. has been lodged in which after investigation a charge sheet has been submitted. Therefore, in view of the Government Order dated 28.04.1958, the same cannot be a ground for refusing appointment to the petitioner.

19. The reliance placed by respondent authorities on the instructions issued by Director General of Police dated 05.04.2025 will not override the provisions of Government Order dated 28.04.1958, which still hold field in the matter of issuance of character certificate in case of first employment of the government employee.

20. On a query being raised by learned Standing Counsel whether the Government Order dated 28.04.1958 has been superseded or amended or is not applicable to Police Constable, the answer is that the same is in existence and the same is followed from time to time and further it governs the field with respect to grant of character certificate. This fact is also apparent as in the order impugned, respondent No. 3 has relied upon Government Order dated 28.04.1958, and the stand of respondents in the counter affidavit is also to the effect that the orders have been passed after an inquiry as contemplated under the Government Order dated 28.04.1958

21. In case of Avtar Singh (supra), the Supreme Court, after considering the various judgments of the Hon'ble Supreme Court, summarized its conclusion in paragraph No. 38 of the judgment, which is quoted 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."

22. In paragraph number 38(6) of the judgment, Supreme Court has held that in a case where 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.

23. In case of **Commissioner of Police and others Vs. Sandeep Kumar,(2011) 4 SCC 644**, the observations made by the Court in paragraph Nos. 8, 9, 10 and 11 are quoted as under:-

“ 8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often been condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

9. *In this connection, we may refer to the character 'Jean Valjean' in Victor Hugo's novel 'Les Miserables', in which for committing a minor offence of stealing a loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.*

10. *We may also here refer to the case of Welsh students mentioned by Lord Denning in his book 'Due Process of Law'. It appears that some students of Wales were very enthusiastic about the Welsh language and they were upset because the radio programmes were being broadcast in the English language and not in Welsh. Then came up to London and invaded the High Court. They were found guilty of contempt of court and sentenced to prison for three months by the High Court Judge. They filed an appeal before the Court of Appeals. Allowing the appeal, Lord Denning observed :-*

"I come now to Mr. Watkin Powell's third point. He says that the sentences were excessive. I do not think they were excessive, at the time they were given and in the circumstances then existing. Here was a deliberate interference with the course of justice in a case which was no concern of theirs. It was necessary for the judge to show - and to show to all students everywhere - that this kind of thing cannot be tolerated. Let students demonstrate, if they please, for the causes in which they believe. Let them make their protests as they will. But they must do it by lawful means and not by unlawful. If they strike at the course of justice in this land - and I speak both for England and Wales - they strike at the roots of society itself, and they bring down that which protects them. It is only by the maintenance of law and order that they are privileged to be students and to study and live in peace. So let them support the law and not strike it down.

But now what is to be done? The law has been vindicated by the sentences which the judge passed on Wednesday of last week. He has shown that law and order must be maintained, and will be maintained. But on this appeal, things are changed. These students here no longer defy the law. They have appealed to this court and shown respect for it. They have already served a week in prison. I do not think it necessary to keep them inside it any longer. These young people are no ordinary criminals. There is no violence, dishonesty or vice in them. On the contrary, there was much that we should applaud. They wish to do all they can to preserve the Welsh language. Well may they be proud of it. It is the language of the bards - of the poets and the singers - more melodious by far than our rough English tongue. On high authority, it should be equal in Wales with English. They have done wrong - very wrong - in going to the extreme they did. But, that having been shown, I think we can, and should, show mercy on them. We should permit them to go back to their studies, to their parents and continue the good course which they have so wrongly disturbed." [Vide Morris Vs. Crown Office, (1970) 2 Q.B. 114]

In our opinion, we should display the same wisdom as displayed by Lord Denning.

11. *As already observed above, youth often commit indiscretions, which are often condoned.*

- 24.** In case of **SPO/ Constable IRB Satpal Singh Vs. State of Punjab and others (Civil Appeal No. 9749 of 2016)** decided on 04.08.2026; 2026 INSC 798, in paragraph No. 26, the Supreme Court has held as under:-

“26. Appellant was discharged from service not because of his conviction on a criminal charge but merely on the ground of pendency of the criminal case. He was not given an opportunity of raising his defence. We have not been shown any law which authorises a public employer to either dismiss or remove an employee serving the police for more than a decade solely on the ground of pendency of a criminal case. The act of termination of service, in the circumstances, cannot be justified.”

- 25.** In case of **Mohammed Imran Vs. State of Maharashtra and Others; AIR 2018 Supreme Court 4895**, in paragraph Nos. 4 to 9, Hon’ble Supreme Court has held as under:-

“4. Learned counsel for the respondents submitted that the appellant being an aspirant for judicial service, the standards of behaviour and conduct, to consider suitability for appointment will have to be different from any other service. He was involved in an act of moral turpitude in kidnapping of the girl in question. The acquittal, because the prosecutrix turned hostile, cannot come to the aid of the appellant. The candidate referred to, for contending hostile discrimination, was not involved in an act of moral turpitude. Mere empanelment for appointment creates no rights to seek mandamus for appointment. The fact that he may have disclosed the alleged involvement in the attestation form, cannot be considered sufficient to ignore his conduct involving moral turpitude.

5. We have considered the submissions on behalf of the parties. The only allegation against the appellant in Sessions Case No.173 of 2000 is that he along with another was travelling in an autorickshaw that was following the autorickshaw in which the prime accused Bilal, who was charged under Section 376, IPC, was travelling with the girl in question. All the accused were acquitted because the prosecutrix did not support the allegations. The appellant was 21 years of age on the date of occurrence i.e. 25.05.2000.

6. Employment opportunities is a scarce commodity in our country. Every advertisement invites a large number of aspirants for limited

number of vacancies. But that may not suffice to invoke sympathy for grant of relief where the credentials of the candidate may raise serious questions regarding suitability, irrespective of eligibility. Undoubtedly, judicial service is very different from other services and the yardstick of suitability that may apply to other services, may not be the same for a judicial service. But there cannot be any mechanical or rhetorical incantation of moral turpitude, to deny appointment in judicial service simpliciter. Much will depend on the facts of a case. Every individual deserves an opportunity to improve, learn from the past and move ahead in life by selfimprovement. To make past conduct, irrespective of all considerations, an albatross around the neck of the candidate, may not always constitute justice. Much will, however depend on the fact situation of a case.

7. That the expression “moral turpitude” is not capable of precise definition was considered in Pawan Kumar vs. State of Haryana and another, (1996) 4 SCC 17, opining:

“12. “Moral turpitude” is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity....”

8. The appellant by dint of hard academic labour was successful at the competitive examination held on 16.08.2009 and after viva voce was selected and recommended for appointment by the Maharashtra Public Service Commission on 14.10.2009. In his attestation form, he had duly disclosed his prosecution and acquittal. Mere disclosure in an appropriate case may not be sufficient to hold for suitability in employment. Nonetheless the nature of allegations and the conduct in the facts of a case would certainly be a relevant factor. While others so recommended came to be appointed, the selection of the appellant was annulled on 04.06.2010 in view of the character verification report of the police.

9. It is an undisputed fact that one Shri Sudhir Gulabrao Barde, who had been acquitted on 24.11.2009 in Case No.3022 of 2007 under Sections 294, 504, 34, IPC, has been appointed. We are not convinced, that in the facts and circumstances of the present case, the appellant could be discriminated and denied appointment arbitrarily when both the appointments were in judicial service, by the same selection procedure, of persons who faced criminal prosecutions and were acquitted. The distinction sought to be drawn by the respondents, that the

former was not involved in a case of moral turpitude does not leave us convinced. In Joginder Singh (supra), it was observed as follows:

“25. Further, apart from a small dent in the name of this criminal case in which he has been honourably acquitted, there is no other material on record to indicate that the antecedents or the conduct of the Appellant was not up to the mark to appoint him to the post....”

26. I have perused the order impugned. Respondent No. 3 has merely accepted the recommendation of District Magistrate, Ballia and Superintendent of Police, Ballia and has not independently recorded any finding on the candidature of the petitioner that whether mere pendency of criminal case of trivial nature, as disclosed by the petitioner, it would not be proper to appoint the petitioner as per the Government Order dated 28.04.1958. The appointing authority has to make an independent consideration after considering the reports submitted before them. In the present case no such consideration has been accorded by respondent No. 3. Relevant paragraph of order impugned is quoted as under:-

"याची / अभ्यर्थी रवि कुमार गुप्ता पुत्र दिप नरायन गुप्ता (रजिस्ट्रेशन संख्या-15220008 अनुक्रमांक-3083371) निवासी ग्राम पाण्डेयपुर पोस्ट जनारी जनपद बलिया को शासनादेश संख्या: 4694-ii-B-321-1947 दिनांक: 28.04.1958 में निहित प्रावधानों एवं माननीय उच्चतम न्यायालय द्वारा अवतार सिंह बनाम यूनियन ऑफ इण्डिया व अन्य में पारित आदेश दिनांक: 21.07.2016 का संज्ञान लेते हुये जिलाधिकारी बलिया द्वारा पत्र संख्या: 16/ न्याय सहायक द्वितीय दिनांक: 13.06.2025 एवं पत्र संख्या: 88/ न्याय सहायक द्वितीय दिनांक: 11.07.2025 द्वारा दिये गये विधिक अभिमत में याची / अभ्यर्थी रवि कुमार गुप्ता को आरक्षी पद पर नियुक्ति हेतु अनपयुक्त पाये जाने एवं पुलिस अधीक्षक बलिया द्वारा दिये गये अनापत्ति प्रमाण पत्र में भी अभ्यर्थी उपरोक्त को नियुक्ति पत्र निर्गत किये जाने हेतु अनुपयुक्त पाये जाने के कारण इस कार्यालय द्वारा अभ्यर्थी रवि कुमार गुप्ता पुत्र दिप नरायन गुप्ता (रजिस्ट्रेशन संख्या-15220008 अनुक्रमांक-3083371) को आरक्षी ना०पु० के पद पर नियुक्ति पत्र निर्गत किया जाना सम्भव नहीं है।

अतः एतद् द्वारा याची का प्रत्यावेदन दिनांक: 29.10.2025, जो प्रतिसार निरीक्षक, रिजर्व पुलिस लाइन्स, कमिश्नरेट प्रयागराज के माध्यम से इस कार्यालय को दिनांक: 10.11.2025 को प्राप्त हुआ है, उक्त उल्लिखित तथ्यों के आधार पर निस्तारित किया जाता है।"

27. This Court may also note that the perusal of F.I.R. indicate that the allegations against the petitioner in the F.I.R. are general in nature

and no specific role has been assigned to the petitioner. Further, according to F.I.R., Pawan Kumar Gupta, brother of the petitioner, was injured by the cattle of the first informant and accused in the F.I.R., came to complain about the same with the first informant and has assaulted the first informant. It is also apparent that the entire family of the petitioner have been booked in the aforementioned F.I.R. Respondent No. 3, while rejecting the claim of the petitioner did not consider this aspect of the matter.

28. This Court is conscious of the fact that it is exclusive domain of appointing authority to assess the suitability of candidate and once the suitability of the candidate is assessed on the settled principle of law, this Court should not interfere with the discretion of the appointing authority unless said discretion has been exercised arbitrarily. In the present case, the impugned order is that the same has been passed on the basis of recommendation made by District Magistrate, Ballia. Respondent No. 3 has not given any consideration to the nature of charge levelled against the petitioner in F.I.R. and the fact that the F.I.R. has been lodged on 02.07.2022 and more than four years have passed yet trial has not been concluded. In such view of the fact, this Court finds that the petitioner cannot be denied appointment on the basis of criminal case, more so when the order impugned has been passed without application of the mind.

29. In case of Rakesh Kumar Verma (supra), this Court has held as under:

"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."

30. In case of Umesh Chand (supra), this Court in paragraph No. 19 has held as under:-

"19. In view of the mandate of the Hon'ble Supreme Court in the case of Avtar Singh (supra), the appointing authority is enjoined to take into consideration the Government Order/instructions/rules applicable to an employee, at the time of taking a decision as to whether mere pendency of a criminal case would be a ground to negate the claim of a candidate for being selected and appointed in public service. The said consideration is absolutely lacking in the order impugned before the writ court and further the Government Order dated 21.04.1958 providing for the modalities for

verification of character and antecedents of the Government servants before their first appointment had also not been looked into, thus in the firm opinion of the Court, the matter needs to be re-considered by the appointing authority afresh in the background of the facts available in the case of the writ petitioner.”

31. Judgments relied upon by the learned Chief Standing Counsel in the case of Rajasthan Rajya Vidyut Prasaran Nigam Limited (supra) is a case wherein the employee did not disclose about the factum of pendency of a criminal case which even in fact dis-entitled him to be accorded appointment though he was subsequently acquitted as the question of trust intervened and the employer was held to be legally justified in not continuing the employee in employment. Here in the present case there is no allegation of non-disclosure or concealment , thus the judgment in the case of Rajasthan Rajya Vidyut Prasaran Nigam Limited (supra) is distinguishable. So far as the case of Methu Meda (supra) is concerned the same is relatable to import and impact of acquittal on the basis of benefit of doubt. It was held that for claiming appointment, in a criminal case the acquittal should be honorable and not the benefit of doubt. Similarly the case of Chetan Jeff (supra) is also distinguishable on the facts, particularly when in the said case there was concealment and material suppression of pendency of criminal case, which is lacking the present case at hand. With regard to reliance placed upon by the learned Standing Counsel in the case of Satish Chandra Yadav (supra) is concerned, the same is also not applicable in the present case as in the said case the Hon'ble Apex Court held that acquittal in a criminal case could not automatically make entitled a candidate for appointment to a post as still it would not be open to the employer to consider antecedents whether the candidate concerned is suitable and fit for appointment to the post. The judgment in the case of Imtiyaz Ahmad Malla (supra) is not also applicable as it was a case wherein the candidate suppressed the material fact of pendency of the criminal case.

32. This Court is of the considered opinion that the order impugned cannot be sustained. Accordingly, the writ petition is allowed and the order dated 25.11.2025 passed by respondent No. 3 is set aside.

33. Respondent No. 3 is directed to pass a fresh order after reconsidering the matter in the light of observations made by this Court as well as by the Hon'ble Supreme Court in judgments mentioned herein above, expeditiously, preferably within a period of two months from the date of production of certified copy of this order.

(Manish Kumar Nigam,J.)

September 28, 2026

Nitika Sri.