



RAJASTHAN HIGH COURT

**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

सत्यमेव जयते

S.B. Civil Writ Petition No. 1607/2017  
CNR: RJHC020580452017 | URN: CW / 3123U / 2017

Vikram Singh S/o Sh. Gopi Singh, R/o Kumhar Mohalla, Village Lohagal, Post Makarwali, Distt. Ajmer (Raj.).

-----Petitioner

Versus

1. State of Rajasthan through Dept. of Energy, Jaipur.
2. Managing Director, Ajmer Vidyut Vitran Nigam Ltd., Vidyut Bhawan, Panchsheel Nagar, Ajmer 305004.
3. Assistant Engineer (O & M), Ajmer Vidyut Vitran Nigam Ltd., Shastri Nagar, Ajmer.
4. Secretary (Admin.), Ajmer Vidyut Vitran Nigam Ltd., Vidyut Bhawan, Panchsheel Nagar, Ajmer 305004.

-----Respondents

For Petitioner(s) : Mr. Saurabh Purohit for  
Mr. Rakesh Kumar

For Respondent(s) : Ms. Priya Rastogi for  
Mr. Ankur Rastogi

**HON'BLE MR. JUSTICE ANAND SHARMA**

**Judgment**

**REPORTABLE**

|                                                                    |    |               |
|--------------------------------------------------------------------|----|---------------|
| Date of conclusion of arguments                                    | :: | 25.09.2026    |
| Date on which judgment was reserved                                | :: | 25.09.2026    |
| Whether the full judgment or only the operative part is pronounced | :: | Full Judgment |
| Date of pronouncement                                              | :: | 05.10.2026    |

1. This writ petition has been filed by the petitioner assailing the order dated 20.01.2016 issued by the Secretary (Administration), Ajmer Vidyut Vitran Nigam Limited whereby services of the petitioner have been terminated in view of Condition No.10 mentioned in the appointment order.
2. Facts in brief are that father of the petitioner was employee of respondent-AVVNL, however, he died while in service



on 18.06.2014. After his death, the petitioner applied for compassionate appointment in place of his deceased father and accordingly appointment order was issued on 20.02.2015 for appointing the petitioner on the post of 'Helper-II' as probationer trainee. Condition No.10 of appointment order dated 20.02.2015 is reproduced hereunder:

"10. प्रोबेशनर ट्रेनी की सेवाएँ किसी भी समय एक माह की लिखित सूचना अथवा उसके बदले में एक माह का फिक्सड रेमुनरेशन देकर समाप्त की जा सकती है, किन्तु दुराचरण /कदाचार तथा पुलिस द्वारा चरित्र सम्बन्धी प्रतिवेदन पक्ष में नहीं होने के मामले में सेवाएँ समाप्त की जावैगी, तब किसी प्रकार की लिखित सूचना देना अनिवार्य नहीं है।"

3. As per petitioner pursuant to aforesaid appointment order, he joined the services and was discharging his duties with due honesty and dedication. He received one letter dated 29.10.2015 issued by Secretary Administration Ajmer Vidyut Vitran Nigam Ltd. informing the petitioner to avail personal hearing before him. However, letter dated 29.10.2015 was vague in as much as there was no indication whatsoever in the letter with regard to subject matter on which personal hearing was to be given to him. Although, it was postponed for 26.11.2015.

4. On 26.11.2015, the petitioner appeared before the Managing Director Ajmer Vidyut Vitran Nigam Ltd however, nothing was disclosed even during personal hearing also and it was simply an eye wash.

5. As per petitioner, he was shocked to receive the order dated 20.01.2016 revealing therein that while seeking appointment, an affidavit dated 31.07.2014 was submitted by the petitioner in order to make a statement that no criminal case was pending against him in any Court and he has not been convicted



in any criminal case. It was also mentioned in order dated 20.01.2016 that Additional Superintendent of Police, Jaipur has submitted a police verification report indicating therein that a criminal case bearing No.29/2013 under Section 19/54 of Rajasthan Excise Act was registered against the petitioner and the same was decided on 20.07.2013. However, such fact was allegedly suppressed by the petitioner therefore, in view of Condition No.10 of the appointment order, his character and antecedents were not found satisfactory and accordingly his services were terminated.

6. Learned counsel for the petitioner submits that the said case was registered on 14.01.2013, and date of birth of petitioner is 04.10.2016. Thus, at the time of registration of criminal case against the petitioner, he was a minor and till the date of decision of the aforesaid case vide judgment dated 20.07.2013, he had not attained majority. He submits that vide judgment dated 20.07.2013 although, the petitioner was convicted by the Competent Criminal Court for committing offences under Section 19/54 of Rajasthan Excise Act, 1950, yet he was released on probation after giving benefit of Section 4 of the Probation of Offenders Act, 1958 (for short 'the Act of 1958').

7. Learned counsel for the petitioner submits that Section 12 of the Act of 1958 makes it clear that once a benefit under Section 4 has been given to any convict then any disqualification attached to such conviction shall not come in the way of that person for getting service benefits.

8. Learned counsel for the petitioner submits that when the petitioner submitted his application form for getting



compassionate appointment in place of his deceased father and submitted affidavit dated 31.07.2014, at that time also, age of the petitioner was less than 18 years. In that tender age, he was not in a position to understand the nature and consequences of conviction followed by probation and since he was informed by his counsel that the Competent Criminal Court has released him, therefore, under these circumstances, suffering from lack of abilities to understand the consequences, an affidavit was given by him, quite bonafidely, stating that no criminal case was pending against him in any Court, nor was he convicted in the criminal case.

9. Learned counsel for the petitioner further submits that when by virtue of Section 12 of the Act of 1958, the incumbent stands absolved from any disqualification for getting service, if any, is attached with the conviction, therefore, under these circumstances, if it is assumed that such information was withheld by the petitioner, even then, withholding of such information cannot be said to be concealment or suppression of material fact and services of the petitioner could not have been terminated only on the aforesaid ground.

10. Learned counsel for the petitioner relied upon the judgment of Hon'ble Supreme Court in the case of **Avtar Singh Vs. Union of India & Ors; AIR (2016) Supreme Court 3598** so as to contend that verification of character and antecedents although is a criteria to attach suitability of any employee, yet ultimate action should be based upon due consideration of all the relevant facts, yet no such consideration is reflected from the impugned order. Learned counsel also relied upon the judgment of



Co-ordinate Bench of this Court at Principal Seat, Jodhpur in **S.B. CWP No.585/2025 (Mohammed Aslam Silawat Vs. State of Rajasthan & Anr.)** so as to clarify the effect of granting probation to an offender.

11. *Per contra*, learned counsel for the respondents opposed the writ petition and submitted that any person seeking appointment to a public post is supposed to come with clean hands but in the instant case, for the purpose of assessment of character and antecedents, disclosure of information with regard to judgment of conviction dated 20.07.2013 was although relevant, yet it was deliberately suppressed by the petitioner to mislead the employer and rather, he submitted a false affidavit so as to state that there was no pending criminal case against him, nor was he ever convicted. It is submitted that petitioner initially engaged as probationer trainee and as per Condition No.10 for the appointment order upon verification of antecedents of the candidates appointed as probationer trainee, in case, it is found that he was having doubtful or unsatisfactory character then in that case, his services were liable to be terminated without giving any notice whatsoever. Learned counsel submits that grant of benefit of probation to the petitioner while convicting him in a criminal case is not relevant, but what is relevant is the conduct of the petitioner where he has suppressed the said information. Under these circumstances, it is the discretion of the employer, while assessing the character of the candidate, to continue him in service or not. In the instant case, after affording personal hearing to the petitioner, and examining the nature of allegations against the petitioner in the criminal case, no mistake whatsoever has



been committed by the respondents in passing the impugned order dated 20.01.2016 for terminating his services for the petitioner. Learned counsel for the respondents has relied upon the judgment of Hon'ble Supreme Court in the case of **State of Rajasthan & Ors. Vs. Chetan Jeff** reported in **(2022) 19 SCC 366**.

12. Heard learned counsel for the parties and perused the record.

13. Admittedly, the petitioner was a minor when the FIR came to be registered against him. He continued to be a minor even when the judgment in the criminal case was rendered. Though the petitioner was convicted, the learned Criminal Court extended him the benefit of Section 4 of the Act of 1958. Significantly, the petitioner was also a minor when he submitted the application for appointment on compassionate grounds and when the alleged affidavit was executed declaring that he had not been convicted in any criminal case. Thus, at every material stage, the petitioner was a juvenile/minor and there is nothing on record to establish that he possessed the requisite understanding of the legal distinction between a conviction simpliciter and a conviction in respect of which the benefit of probation had been extended under Section 4 of the Act of 1958. The alleged declaration, therefore, cannot be examined in isolation, separated from the petitioner's age and the legal consequence flowing from the order of the criminal Court.

14. More importantly, the principles of natural justice have not been duly complied with before passing the impugned order. The notice issued to the petitioner for personal hearing was vague



and did not disclose that the petitioner was required to explain the alleged suppression of his conviction in the application form or affidavit. The petitioner was, therefore, not put to notice of the precise allegation which ultimately became the foundation for termination of his services. A person cannot be condemned for an alleged act of suppression without being specifically informed of the fact alleged to have been suppressed and the manner in which such suppression is proposed to be treated as misconduct or disqualification. The opportunity of hearing must be real and effective and not a mere formality. In the present case, the petitioner was deprived of an effective opportunity to meet the very allegation which has subsequently been made the basis of the impugned order.

15. There is yet another and more fundamental aspect of the matter. Section 4 of the Act of 1958 enables the Court, in appropriate cases, to release an offender on probation of good conduct instead of sentencing him to immediate punishment. Section 12 of the Act of 1958 further provides that a person dealt with under the provisions of Sections 3 or 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under any law. The statutory consequence of extending the benefit of Section 4 of the Act of 1958 is thus of considerable significance. As held by coordinate Bench of this court in **Mohammed Aslam Silawat (supra)**, the noble intent of enacting the probation of Offenders Act is recidivism, rehabilitation as well as re-integration of an offender into the society and depriving him of appointment would defeat the purpose of the Act. Besides this, conviction followed by grant of benefit of probation



does not operate as a disqualification for the purposes contemplated by Section 12 of the Act of 1958. Consequently, where the petitioner, notwithstanding the conviction, had been extended the benefit of Section 4 of the Act of 1958, the respondents could not have treated the said conviction as creating a subsisting disqualification against his appointment or continuance in service, unless the applicable service rules expressly created a legally sustainable exception consistent with the provisions of the Act.

16. The aforesaid statutory position assumes greater significance in the facts of the present case. Even if the petitioner had disclosed the fact of his conviction and the subsequent grant of benefit of Section 4 of the Act of 1958, such disclosure, by itself, could not have rendered him disqualified in view of the statutory protection contained in Section 12 of the Act of 1958. Thus, the alleged non-disclosure did not result in the petitioner obtaining any appointment or service benefit to which he was otherwise legally disentitled. The essential element of material suppression, therefore, is conspicuously absent. Suppression of a fact can furnish a valid ground for cancellation or termination only where the suppressed fact was legally relevant and capable of materially affecting the entitlement of the employee. Where disclosure of the fact could not, by operation of law, have resulted in denial of the benefit sought, non-disclosure of such fact cannot mechanically be elevated to the status of fraud, concealment or suppression warranting the extreme consequence of termination from service.



17. The issue of suppression of criminal antecedents has to be examined in the light of the principles authoritatively summarised by the Hon'ble Supreme Court in **Avtar Singh (supra)**. It has been held in the above case that for examining the effect of concealment of any fact relating to criminal antecedents of the candidate while filling the application form, the employer is also required to take into consideration the nature of the offence, the post in question, the applicable rules/instructions and the surrounding circumstances, and the decision cannot be mechanical.

18. The aforesaid principle has consistently been applied by the Hon'ble Supreme Court to prevent disproportionate consequences flowing from trivial criminal antecedents. In **Commissioner of Police & Ors. vs. Sandeep Kumar** reported in **(2011) 4 SCC 644**, the Hon'ble Court held that non-disclosure of a case under Sections 325/34 IPC, which had subsequently been compromised, could not justify cancellation of candidature, particularly having regard to the youthful age of the candidate and the trivial nature of the incident. The Court observed that youthful indiscretions of such nature ought not to result in a person being branded a criminal for the rest of his life.

19. Likewise, in **Ram Kumar vs. State of Uttar Pradesh & Ors.** reported in **(2011) 14 SCC 709**, the Hon'ble Supreme Court held that even though the candidate had not correctly disclosed his involvement in a criminal case, the appointing authority was required to examine the nature of the suppression and the nature of the criminal case and could not mechanically cancel the selection merely because an incorrect declaration had



been made. The Court found that, in the facts of that case, the acquittal and the circumstances underlying the prosecution did not render the candidate unsuitable for appointment as a constable.

20. The principle was reiterated and applied by the Hon'ble Supreme Court in **Pawan Kumar vs. Union of India & Anr.** reported in **(2023) 12 SCC 317**, wherein it was held that mere suppression of information, irrespective of whether the criminal case resulted in conviction or acquittal, does not require discharge or termination automatically. The employer must consider the relevant facts and circumstances, the antecedents, the objective criteria governing suitability and the nature of the post before taking a decision.

21. So far as judgment of **Chetan Jeff (supra)** as relied upon by learned counsel for the respondent is concerned, the facts in that case were altogether different. In para 34 of the judgment, the Hon'ble court has considered that apart from the criminal case in question for assessing the character of the candidate in that case, he was implicated in three to four other FIRs also. The Hon'ble Supreme court considering the matter of appointment of a Constable, and it was observed duty of the Constable is to maintain law and order; and an employee in Uniformed service presupposes a higher level of integrity. Thus, in entirety character of the candidate was examined, hence, reliance upon such judgment would not advance the case of the respondents.

22. Thus, the settled position is not that every suppression of a criminal case stands condoned, nor that every suppression automatically warrants termination. The decisive consideration is whether the information was specifically required to be disclosed,



whether its non-disclosure was deliberate and attributable to the employee, the nature and gravity of the criminal case, its ultimate outcome, the age and circumstances of the employee at the relevant time, the nature of the post and whether the antecedent has any rational bearing upon his suitability. Consequently, an order of cancellation or termination founded merely upon the fact of non-disclosure, without an objective consideration of these relevant circumstances, cannot be sustained.

23. It is also well settled that the consequence of suppression cannot be determined mechanically merely because any statement in the affidavit was technically incorrect. The nature of the offence, the circumstances in which the conviction was recorded, the age of the person at the relevant time, the nature of the declaration, the legal effect of the order granting probation and the materiality of the fact allegedly suppressed are all relevant considerations. The respondents, instead of examining these circumstances in their proper perspective, have proceeded solely on the basis that the petitioner had suffered a conviction and had not disclosed the same. Such an approach overlooks the statutory protection available under Section 12 of the Act of 1958 and the peculiar circumstance that the petitioner was himself a minor when the declaration was made.

24. Consequently, the impugned order, insofar as it terminates the services of the petitioner on the ground of alleged suppression/concealment of his conviction, suffers from violation of principles of natural justice, non-consideration of the statutory protection under Section 12 of the Act of 1958, and non-



application of mind to the material circumstances attending the alleged declaration.

25. Accordingly, the impugned termination order, being contrary to the statutory protection available to the petitioner, having been passed without affording an effective opportunity of hearing and suffering from non-application of mind to the material circumstances, cannot be sustained and is liable to be quashed.

26. Accordingly, the writ petition is allowed. The impugned order dated 20.01.2016 terminating the services of the petitioner on the ground of alleged suppression/concealment of his conviction is quashed and set aside. The respondents are directed to reinstate the petitioner forthwith in service with continuity of service and all consequential service benefits. However, the petitioner shall be entitled for notional benefit for the intervening period from the date of termination to the date of this judgment. Actual benefits shall be admissible to him from the date of this judgment.

27. Pending application(s), if any, shall stand disposed of.

**(ANAND SHARMA),J**

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