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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4382/2023 & CM APPL. 16883/2023
SUDHI ISACPetitioner
Through: Mr. Bijo Mathew Joy, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through: Ms. Uma Prasuna Bachu, SPC
with Subedar Ramnivas.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)
10.09.2025

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OM PRAKASH SHUKLA, J

1. The present writ petition has been filed under Article 226 of the Constitution of India, wherein the petitioner has prayed for quashing and setting aside the notice of termination order dated 22.03.2023 along with a consequential relief of permitting him to continue his service in GREF, under the Ministry of Defence.

2. Succinctly, the facts of the present case would reveal that on 16.02.2022, the petitioner was provisionally appointed to the post of DVRMT(O) Driver Mechanical Transport (Ordinary Grade) in General Reserve Engineer Force¹ of the Border Roads Organization² under the Border Roads Development Board, Ministry of Defence on

¹ "GREF" hereinafter

² "BRO" hereinafter



compassionate grounds, owing to the death of his father, while on duty as a driver in Jammu & Kashmir on 29.09.2015.

3. Apparently, the petitioner has been seeking appointment in the GREF since the year 2016 on compassionate grounds, and it was only on 18.08.2017, that the mother of the petitioner received an intimation affirming his selection, wherein he was placed at serial number 396 out of 731 candidates awaiting compassionate appointment.

4. In the interregnum, Crime No. 1023/2018 came to be registered at Thrikunnappuzha Police Station against the petitioner and five other persons for alleged offences under Sections 143, 147, 148, 294(b), 324 and 506(i) read with Section 149 of the Indian Penal Code, 1860³, wherein it was alleged that six accused persons, including the present petitioner, formed an unlawful assembly with the common object to commit assault and criminal intimidation.

5. While things stood as aforesaid, the petitioner was requested by the GREF Centre, Pune to apply afresh against the 118 vacancies released for the year 2018, vide a letter dated 02.08.2019. Consequently, the petitioner applied for appointment on compassionate grounds along with the requisite documents. Following the Preliminary Medical Examination⁴, on 24.01.2022, the petitioner was declared medically fit, an offer of recruitment was issued to the petitioner on 29.01.2022 against the vacancies for the year 2019, calling upon him to report at the GREF Centre in Pune, and to submit

³ "IPC" hereinafter

⁴ "PME" hereinafter



an attestation form along with certain documents on or before 28.02.2022.

6. On 14.02.2022, while filling out the abovementioned attestation form, the petitioner marked “No” against Para 12(i) regarding pendency of a criminal case while answering the remaining sub-queries in the negative as well.

7. Thereafter, the petitioner was provisionally appointed as a driver in the GREF w.e.f. 16.02.2022 on compassionate grounds. Meanwhile, the trial for the aforesaid Crime No. 1023/2018 commenced on 03.03.2022 and culminated into the judgement dated 24.03.2022, whereby all the accused persons including the petitioner were acquitted.

8. Subsequently, on 22.06.2022, the GREF Records, Dighi Camp, Pune-15, requested verification of Character and Antecedents pertaining to the petitioner from the Office of the District Police Chief, Alappuzha. In view of the response received from the District Police Chief, the Respondent No.5 issued a letter dated 27.09.2022, seeking explanation regarding the aforesaid Crime No. 1023/2018, in the following words:

“2 On checking of verification duly signed by Dist. Police Chief, Alappuzha letter it is found that the individual was involved in CR. 1023/2018 of Thrikkunnappuzha PS, and he was acquitted by Hon. JFMC I Haripad on 24.03.2022.

3 However, in this instant case you have not disclosed in the attestation form at the time of enrollment and suppressed the facts.

4 In view of the above, you are hereby advised to submit the detailed explanation for the above lapse to this unit immediately.”



9. The petitioner, in response, stated that he was falsely implicated in the criminal case by some known persons due to personal vengeance. He further stated that he attested the form upon consulting his Counsel who assured him that there was no pending case against him, and he was at liberty, and now he has been acquitted in the said criminal case. Further, he stated that any non-disclosure of this case in his enrollment application was unintentional and made in good faith. The petitioner also highlighted that he was the sole breadwinner, he had two unmarried sisters, and that his mother, who was undergoing chemotherapy for Stage IV cancer, depended on him for their livelihood and medical treatment.

10. However, on 17.03.2023, a Show Cause Notice under Rule 11 of Central Civil Services (Classification, Control and Appeal) Rules, 1965⁵ was issued, whereby reply of the petitioner was sought as to why disciplinary action should not be taken against him on the above allegations. Pursuant to the said Show Cause Notice, the petitioner sent a detailed reply dated 22.03.2023, stating that at the time of initial submission of the application for compassionate appointment during 2016, no such proceedings were pending and every year thereafter, the application was repeatedly sent without any changes, ignoring the registration of crime. He stated in his reply that “NO” as answered against Para No. 12(i) in the attestation form was unconsciously written as all other questions were answered in the negative and explaining that the criminal case pending against him was frivolous, vexatious and insufficient to engage his conscience. He further

⁵ “CCS(CCA) Rules” hereinafter



reiterated that there was no willful suppression and that his mother, who suffered from cancer, as well as with his two unmarried sisters, are dependent on him for medical treatment and livelihood.

11. Notwithstanding this reply, Respondent No. 4 issued the impugned Notice under Rule 5(1) of the CCS (Temporary Service) Rules, 1965, whereby the petitioner herein was terminated, which has been sought to be interdicted in this writ petition, along with prayer for consequential relief of reinstatement.

12. Mr. Bijo Mathew Joy, the learned Counsel for the petitioner, would submit that the Respondent No. 5 issued a Show-Cause Notice under Government of India's Decision No. 2 under Rule 11, which relates to "*departmental action for neglect of family by a government servant*". It was argued that the said provision has no application to the petitioner since no such allegation was raised against him by the respondents.

13. It was submitted that the Respondent No. 4 imposed a penalty of termination under Rule 5(1) of the CCS (Temporary Service) Rules, 1965 which is barred under Rule 11 of CCS (CCA) Rules, 1965, as the provisions of sub-rule (1) of Rule 5 of the CCS (Temporary Service) Rules do not constitute a 'penalty' within the meaning of the said Rule 11 CCS(CCA) Rules. According to the learned Counsel, there exists no decision of Government of India under the CCS (Temporary Service) Rules, 1965 providing for action against a government servant on the ground of furnishing false information at the time of appointment. Therefore, any termination



under Rule 5(1) of the said Rules is not legally sustainable, particularly when the non-disclosure of the pending criminal case was unintentional.

14. Mr. Joy, the learned Counsel has strenuously argued that the verification report from the District Police Chief, Alappuzha, noted the petitioner's connection with Crime No. 1023/2018 and his subsequent acquittal by the Hon'ble Judicial Magistrate First Class-I, Haripad on 24.03.2022. Notwithstanding the criminal case, the report of the District Police Chief, explicitly stated that the petitioner was 'suitable for appointment.' He further contended that, in view of this, there was no obstacle to the petitioner's appointment and that any non-disclosure in the attestation form was unintentional and made in good faith. The learned Counsel urged that the case against the petitioner was false and frivolous in nature and therefore no criminal antecedents can be attributed to the petitioner.

15. The learned Counsel sought to highlight the predicament of the petitioner, wherein he came to be appointed as a Driver on compassionate grounds and is unfortunately being proceeded against on account of an isolated incident in an otherwise unblemished service record with no other criminal antecedents. He contended that multiple factors were to be taken in consideration including the financial and medical condition of the family of the petitioner, the fact that he was provisionally appointed as a driver in GREF and, that he had unconsciously answered "NO" to the question of disclosure *qua* the pending case against him. To buttress his argument, the learned counsel placed reliance on the decisions of the Hon'ble Apex Court in



Avtar Singh v Union of India⁶ and ***Ravindra Kumar v State of UP***⁷.

16. Per Contra, Ms. Uma Prasuna Bachu, learned SPC for the respondent would submit that as per Rule 11 of the CCS (CCA) Rules 1965, action against the petitioner was necessary due to false information, related to the pendency of the criminal case, provided by the petitioner in the 'Attestation Form', at the time of his appointment. It was contended by the learned Counsel that the petitioner filled the attestation form and consciously did not disclose about the ongoing trial which amounts to material suppression. She further contended that at the time of filling the Attestation Form, he was verbally briefed by the Recruiting Authority, GREF, Pune to not conceal any information and yet he failed to make the requisite disclosure which attracts penalty under Rule 11 of CCS(CCA) Rules.

17. Learned SPC submits that an employer cannot be compelled to appoint a candidate who acted in bad faith by intentionally failing to disclose involvement in criminal proceedings. Reliance was placed on *paragraph 38.5 of Avtar Singh v Union of India and Ors*(supra) by the Counsel to submit that neither the trial was concluded nor was it, truthfully disclosed and hence it goes way beyond the threshold laid down in *Avtar Singh*(supra)and the notice of termination, thus, is justified.

18. As regard to the medical and financial status of the petitioner, the learned counsel has contended that family pension arising due to

⁶ (2016) 8 SCC 471

⁷ (2024) 5 SCC 264.



the demise of petitioner's father, is payable to the petitioner's mother during her lifetime and being the widow of a deceased government servant, she is also entitled to avail medical facilities under the Medical Attendance Rules in hospitals recognized for specialized cancer treatment. It is thus contended that the petitioner is not entitled to any relief on this ground, as his mother is not dependent upon him.

19. Learned Counsel further contended that candidates for police forces such as the GREF, must possess impeccable character and integrity, and that a person with criminal antecedents, even if acquitted or discharged, may not meet the requisite standard of rectitude. Reliance was placed on *Imtiyaz Ahmad Malla v State of Jammu & Kashmir*⁸, to substantiate the aforesaid claim.

20. Ms. Bachu submitted that, Rule 5 of the CCS (Temporary Service) Rules, 1965, provides that the services of a temporary government servant may be terminated at any time by rendering notice in writing issued either by the government or the appointing authority. She further argued that despite the warning provided in the Attestation Form, there was no disclosure and further, that the petitioner did not dispute furnishing false information in Para12(i) of the Attestation Form. It is further submitted that such false or incorrect entry constitutes misconduct, and termination from service would be justified.

21. Having heard the learned Counsel for the parties and after carefully perusal of the materials on record, this Court is of the

⁸ SLP (C) No. 678/2021



opinion that undoubtedly, while choosing an individual for appointment to public service, the character and conduct of an individual is of paramount significance and the same cannot be compromised in any circumstances. Ordinarily, a person seeking public employment is duty bound to give a truthful disclosure of his or her antecedents, however in the present case, the said responsibility gains significance in the wake that the Attestation Form included a warning that if any legitimate information was suppressed and discovered at any point during an individual's service, their service would be terminated or disqualified, as the case maybe and the candidate would be declared ineligible. However, in the same breath it is also true that this Court and the Hon'ble Supreme Court, on several occasions, have come to the rescue of the aspirants and have delineated certain circumstances, wherein the disqualification of aspirants to uniformed services, despite suppressing material facts, were not found to be in consonance with the reigning service jurisprudence, depending upon the nature of post, nature of duties/-service, effect of suppression over suitability etc.

22. The Apex Court, while dealing with material suppression of facts, in ***Ravindra Kumar*** (supra), has categorically laid down that:

“32. The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgment of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio-economic strata of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered.



34. *On the facts of the case and in the backdrop of the special circumstances set out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can be deemed fatal for the appellant. **Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country.** Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario”*

23. Thus, it is settled law that every case involving suppression or non-disclosure must be assessed holistically and mere non-disclosure of a past criminal antecedent or proceeding cannot automatically lead to disqualification. Authorities cannot cancel selection mechanically for mere non-disclosure; they must assess suitability in accordance with the law.

24. Furthermore, the decision in *Avtar Singh v Union of India*(supra), lays down the guidelines *qua* non-disclosure of material facts. The Supreme Court held that a candidate's suitability should not be questioned based solely on their failure to disclose irrelevant or trivial information. Such errors may be excused, and the employer has the authority to do so by using uniform and objective standards. The relevant extract is reproduced below:

“36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.



37. *The “McCarthyism” is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformative theory cannot be ruled out in toto nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for cancelling candidature or discharging an employee from service.”*

25. Adverting to the facts of the present case, this Court finds that the petitioner applied for appointment on grounds of death of his father in harness in the year 2016, when the petitioner was eighteen years old and there was no case pending against him. Apparently, he was informed through his mother in 2017 that his candidature was under consideration as he was placed at serial number 396 out of 731 candidates, who were awaiting compassionate appointment. It was in the year 2018, when the petitioner was about 20 years, that he along with five others, who were all similarly aged, were charged with allegation of forming an unlawful assembly, criminal intimidation and assault under Sections 143, 147, 148, 294(b), 324 and 506(i) read with Section 149 of the IPC. The petitioner was requested to re-apply in the year 2022, wherein he was told to fill multiple columns in the attestation form, leading to his suppression of the pendency of the criminal case against him.

26. No doubt, the multiple columns in the attestation form, questions were asked from him in different permutations and combinations. He must have been in a deep dilemma as there was an imminent prospect of losing his employment. It is quite possible that either he might have been careless in striking off the correct option or would have been so impressed upon his acquittal by his Counsel that he made a wrong disclosure. The proximate timing in filling of his



attestation form on 14.02.2022 and his acquittal on 24.03.2022 prompts us to record the said observation. Further, we find that the petitioner was appointed and subsequently, on 22.06.2022, the GREF Records, Dighi Camp, Pune-15, requested verification of Character and Antecedents pertaining to the petitioner from the Office of the District Police Chief, Alappuzha. This Court finds that the District Police Chief sent a report in tabular form and after noting that the details of the criminal case and the subsequent acquittal of the petitioner on 24.03.2022, has stated that the petitioner was suitable for appointment.

27. Although, this Court does not intend to give any concession to the petitioner for suppressing the material facts of his involvement in the criminal case, however the fact remains that this Court is reminded of a very significant paragraph in the ***Ravindra Kumar's case(supra)***, which relates to the doctrine of proportionality. The Apex Court says that; *'what yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.'* Thus, a threshold for assessing material suppression in respect of a post such as a driver in the GREF, should be in accordance with law quoted above and cannot be equated with the principles attributable to higher ranking offices in public departments or services.



28. This Court finds that every case needs to be analysed holistically and by considering surrounding circumstances in each case. In the present circumstances, the post in question is that of a Driver, therefore, character evaluation in the present must be linked to the responsibilities of this position, which do not require much public interaction or considerable discretion or authority. Further, the petitioner's appointment was offered under the compassionate appointment scheme, which itself reflects the family's economic vulnerability. Since it is difficult to evaluate character in vacuum or separate it from these social circumstances, a realistic and more pragmatic approach has to be adopted.

29. Admittedly, in the present case, the petitioner is not involved in any case, which can be termed to be involving in moral turpitude or offence of heinous or serious nature. The offense in question is not a serious one. All the accused, including the petitioner are in the age group of 20-30 years. The prosecution failed to produce any witnesses during the trial, resulting in the acquittal of the petitioner, which in a way, also makes the happening of the alleged event doubtful. Further, this Court cannot be oblivious of the fact that subsequent police verification from District Police Chief, Alappuzha, recommended the petitioner as a suitable candidate and nothing against him has been mentioned in the said Report. Even from the perspective of proportionality, the allegations against the petitioner were neither serious nor proven at trial. Further, considering the purpose of compassionate appointment, the very objective of these recruitments is to alleviate immediate financial hardships faced after passing of the provider. Presently, the petitioner and his family's dependence



coupled with his mother's continued medical treatment cannot be ignored.

30. Hence, in the peculiar facts and circumstances, while keeping in view the contemporaneous records, we are persuaded to exercise our discretionary relief in favour of the petitioner in the interest of justice.

31. For the aforesaid reasons and following the law laid down in *Ravindra Kumar v State of U.P.* (supra) and *Avtar Singh v Union of India* (supra), we set aside and quash the impugned termination order dated 22.03.2023 with consequential reliefs(s) as may be permissible to him as per law. The petition is allowed with no order as to costs.

OM PRAKASH SHUKLA, J

C.HARI SHANKAR, J

SEPTEMBER 10, 2025/AT