IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.434 of 2023
In
Civil Writ Jurisdiction Case No.3805 of 2021

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Ravi Kumar Singh S/o-Satyendra Singh Resident of Sirisiya, P.S.- Rivilganj, District- Saran.

... ... Appellant/s

Versus

1. The State of Bihar Through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. Director General of Police, Bihar Police Academy, Rajgir, Bihar.
3. The Secretary, Bihar Police Junior Service Commission, Patna.
4. The Inspector General of Police (Headquarter), Bihar, Patna.
5. Deputy Inspector General, Saran Range, Chapra.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Amit Shrivastava, Sr. Advocate
		Mr. Prashant Bhushan, Advocate.
		Mr. Girish Pandey, Advocate
		Mr. Aditya Anand, Advocate
		Mr. Arya Anand, Advocate
		Mr. Brajesh Sahay, Advocate
For the Respondent/s	:	Mr. P.K Verma, AAG-3
		Mr. S.K. Ghosarvey, AC to AAG-3
		Ms. Divya Verma, AC to AAG-3
For BPSSC	:	Mr. Sanjay Pandey, Advocate.
		Mr. Nishant Kumar Jha, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

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2025:PATHC:20762-DB

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 20-03-2025

Re**: Interlocutory Application No. 1 of 2023.**

1. The aforenoted interlocutory application has been filed for condoning the delay of 111 days in filing the memo of appeal.

2. For the reasons stated in the interlocutory application, the delay of 111 days in preferring this appeal is condoned.

3. I.A. No. 1 of 2023 stands allowed.

Re : **L.P.A No. 434 of 2023.**

4. We have heard Mr. Amit Shrivastava, learned Senior Advocate assisted by Mr. Prashant Bhushan, Advocate for the appellant; Mr. S.K. Ghosarvey, for the State and Mr. Sanjay Pandey, for the Bihar Police Subordinate Service Commission.

5. The appellant was appointed as Sub-Inspector of Police against advertisement no. 1/2017. however, on return of the verification roll, it was found that he was earlier made accused in a criminal case; though was

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acquitted. This information led the D.I.G to arrive at a conclusion that since the appellant's acquittal was based on on compromise and lack of evidence, it could not be considered to be an honourable acquittal. Considering that in police force, men of impeccable integrity only could be inducted, the appointment of the appellant was cancelled on the ground of the earlier accusation and non-disclosure about the same.

6. The contention raised on behalf of the appellant before the learned Single Judge was that the acquittal in the criminal case was recorded before the appointment was made. That apart, he had never suppressed such information and had indicated in the verification form that he was made accused in a case of petty nature in which he was acquitted.

7. The learned Single Judge, however, upholding the decision to cancel the appointment of the appellant took note of the decision of the Supreme Court in ***Union of India and Others v. Methu Meda; (2022) 1 SCC 1***, in

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which it was held that any person who wishes to join the police force must be a person of utmost rectitude and should have impeccable character and integrity. A person having criminal antecedents would not be fit in that category and that an employer shall have the right to consider the nature of acquittal or decide until he is completely exonerated, because even the possibility of his taking to the life of crimes would pose a threat to the discipline of the police force. In this context, in the aforenoted judgment, it was discussed that the Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee and the decision of the Committee would be final unless malafide is shown.

8. The learned Single Judge, therefore, found that the opinion of D.I.G. that the judgment of acquittal was not based on merits or could be called to be an honourable acquittal and that what was being considered was an appointment in the police force, to be beyond cavil.

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9. Mr. Shrivastava, however, has submitted that the learned Single Judge ought to have considered that the acquittal was recorded before the appellant was selected in the first instance in the selection process. That apart, no specific accusation was made against the appellant in that criminal case. The circumstance of the case also indicated that there could be a possibility of false identification or false framing. Based on these facts, the Trial Court, on finding paucity of evidence and compromise amongst the parties with respect to specific allegation against others had acquitted all the accused persons. It was further argued that apart from this, the learned Single Judge ought to have looked into the verification form in which there was a specific statement/disclosure made by the appellant that he was made an accused in a criminal case earlier but was acquitted of the charge. With these facts would have been taken into account in correct perspective, the learned Single Judge would not have ratified the decision of the D.I.G. in holding that there could be a possibility of recidivism of the

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appellant, making him unfit to be confirmed in police service.

10. While canvassing his argument, Mr. Shrivastava has referred to the judgment of the Supreme Court in ***Avtar Singh v. Union of India and Others; (2016) 8 SCC 471***, wherein a three judges bench of the Supreme Court has held as follows:-

> *"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*

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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

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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.

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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".

11. Though, it is open for the authorities to consider the nature of acquittal and the nature of accusation against an employee/incumbent, but such decision has to be based on objective facts. The acquittal had already been recorded in a case of petty nature, which information was provided in clear terms by the appellant.

12. The observations of the D.I.G. that there is possibility of recidivism is only conjectural and based on no solid ground.

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13. We are unable to ascribe to the view of the learned Single Judge that when such aspects are not taken into account by the authorities while reviewing the verification roll, then also, no judicial interference could be made.

14. For the reasons of the implication of the appellant which was petty in nature with no specific accusation against him in which he was acquitted and which information was provided to the appointing authority, we find that his being thrown out of service was not at all justified merely on the assumption of possibility of the appellant peddling back to the life of crimes.

15. For the aforenoted reasons, we set aside the judgment of the learned Single Judge as also of the respondent in cancelling the appointment of the appellant.

16. The appellant is directed to be taken in service and be provided the requisite training which he may not have completed. The decision in that regard by the authorities shall be taken within a period of two months from the date of production of a copy of this judgment.

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17. Needless to say that the petitioner would also be entitled to all the notional benefits as if he were employed during that period.

18. The appeal stands allowed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Shiv/Sunil

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CAV DATE	
Uploading Date	22.03.2025
Transmission Date	

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