



2025:PATHC:91983

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9540 of 2025

Dhannajay Kumar S/o Sri Rajaram Prasad, R/o- Vill- Pachasa, P.O- Moratalab, P.S- Rahui, Nalanda.

... .. Petitioner/s

Versus

1. The Union of India through the Home Secretary, New Delhi.
2. The Director General, Saharsa Seema Bal, New Delhi.
3. The Inspector General, Frontier Hqrs. SSB, Siliguri, West Bengal.
4. The Deputy Inspector General, SHQ, SSB, Jalpaiguri, West Bengal.
5. The Commandant, 46 Bn SSB, Malbazaar, West Bengal.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate Mr. Gyanendra Kumar Diwakar, Advocate Mr. Mohit Ranjan, Advocate
For the UOI/CISF	:	Mr. Arvind Kumar, CGC Mr. Awdhesh Kumar Pnadey, Sr. CGC

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 13-10-2025

Heard learned counsel for the petitioner and Mr. Arvind Kumar, learned CGC for the Union of India.

2. The present writ petition has been filed challenging the order dated 17.01.2025 passed by the Commandant 46 Bn, SSB, Mal Bazar, Jalpaigudi by which the petitioner has been terminated from the service from the post of Constable (GD). Subsequently, the petitioner has also challenged the aforesaid order of termination which was rejected vide order dated 28.03.2025 passed by the Deputy Inspector General, SHQ, SSB, Jalpaigudi, West Bengal.





3. Pursuant to Advertisement published in the year 2021, the petitioner was appointed to the post of Constable (GD), after appearing through the recruitment examination process, result of which was published on 08.11.2022. ON 17.11.2022, the appointment letter was issued. A character certificate dated 25.11.2022 was issued by the Superintendent of Police, Nalanda stating therein that the name and address of the petitioner was correct and no adverse entry was found against him in Rahui Police Station. Vide order dated 13.02.2023, issued by the Commandant SSB, ATC, SSB Sitamarhi, the petitioner was appointed to the post of GD Constable. Pursuant to the appointment letter dated 17.11.2022, the petitioner reported with relevant documents on 16.12.2022 and filled up the Character Verification Form wherein at Column No. 12B, regarding antecedents of the petitioner, in which the petitioner had mentioned as "No". Thereafter, the Second-in-Command, Commanding Officer, 46 Bn, SSB, Malbazar, West Bengal, an explanation was sought regarding the Character Verification Form of the petitioner. After receipt of the report dated 27.05.2023, it was pointed out that a case i.e., Rahui P.S. Case No. 125 of 2022 dated 08.03.2022 registered under Sections 147, 148, 149, 341, 323, 337, 504, 506 of the Indian Penal Code





and Sections 3(i)(r)/(s) of the SC & SC Act and Section 27 of the Arms Act was instituted against the petitioner.

4. Learned counsel submits that the petitioner submitted an explanation on 08.08.2023 stating that since petitioner was under the belief upon the wrong advise given by the Advocate that the aforementioned criminal case is disposed based on a compromise. Subsequently, the Training Officer, ATC SSB, Shamshi, Himachal Pradesh vide memo dated 16.08.2023 directed to the petitioner to submit all relevant documents, in compliance thereof, the younger brother of the petitioner on 08.09.2023 submitted all the relevant documents related to aforesaid Rahui P.S. Case No. 125 of 2022.

5. The petitioner joined as Constable (GD), 46 Bn SSB, Malbazar on 18.12.2023.

6. The petitioner was issued a show cause notice dated 01.01.2024 by the Commandant, 53rd Bn SSB, Falakata wherein the petitioner was directed to submit his response within 30 days for furnishing wrong information in Column No. 12B of his verification form. On 29.01.2024, the petitioner submitted his reply to the show cause wherein the petitioner had categorically submitted that the error was owing to the wrong advise giving by his Advocate that the criminal case has been disposed based





on a compromise. Subsequently, another show case notice dated 25.11.2024 was issued by the Commandant 46th Bn SSB Malbazar directed the petitioner to submit his reply as to why his services be not terminated. An application dated 23.12.2024, including all relevant documents related to the criminal case, was submitted by the petitioner explaining the facts and the reasons and the *bona fide* mistakes committed on his part. On 17.01.2025, the order of termination was issued by the Commandant 46 Bn SSB Malbazar terminating the petitioner from the service under Rule 18 read with Rule 23 of the SSB Rules, 2009 and he was consequently struck off from the strength of 46 Bn SSB Malbazar on the ground of furnishing wrong information in his verification form. The petitioner preferred an appeal under Rule 29 SSB Rules, 2009 before the Deputy Inspector General, SHQ, SSB, Jalpaiguri which was rejected vide order dated 28.03.2025.

7. It has been submitted by learned counsel for the petitioner that at the time of filling up the Character Verification Form the petitioner had inadvertently and under bona fide mistake of fact had not disclosed the pending criminal case i.e. Rahui P.S. Case No. 125 of 2022. Moreover, the petitioner has been discharged by the learned trial Court vide





order dated 08.01.2024.

8. It has also been submitted by learned counsel that the aforesaid criminal case was instituted by one Saheb Paswan, co-villager of the petitioner owing to some internal village dispute and there was no involvement of the petitioner.

9. It has also been argued that the finding of the Enquiry Officer is based on conjectures and surmises as he has observed that the delinquent employee should have filled up the Character Verification Form only after ascertaining full facts when it is the categorical submission of the petitioner that he had no knowledge about his involvement in any case.

10. Lastly, it has been submitted by learned counsel for the petitioner that though the error of not disclosing the pending criminal case was on account of bona fide error and the petitioner was discharged by the learned trial Court yet the respondents vide impugned order dated 17.01.2025, had imposed the punishment of termination from the service which is too harsh and disproportionate to the alleged charge, more so, in light of the fact that the aforesaid criminal case was instituted at the behest of a co-villager and the learned trial Court had discharged the petitioner.

11. Learned counsel for the petitioner has relied





upon the decisions of the Hon'ble Supreme Court rendered in the case of *Avtar Singh vs. Union of India & Ors.* reported as *(2016) 8 SCC 471*; *Pawan Kumar vs. Union of India & Anr.* reported as *(2023) 12 SCC 317* and *Ravindra Kumar vs. The State of Uttar Pradesh & Ors.* reported as *(2024) 5 SCC 264*. The learned counsel has also placed reliance on a decision by this Court in *Sunil Kumar vs. State of Bihar & Ors.* in C.W.J.C. No. 10563 of 2020.

12. In this case, the respondents has filed its counter affidavit and opposed the arguments of the petitioner. The stand of the respondents is that Column 12B of the verification roll categorically stated whether any case is pending against the candidate in any Court of law, however, the petitioner knowing fully well did not disclose the pending criminal case against him particularly when he was enlarged on bail at the time of appointment. Further, the petitioner while replying to the memo dated 15.07.2023 had stated that he was granted bail from the Court of Special Judge, SC/ST, Nalanda, Biharshari and subsequently, a joint compromise petition was filed. Learned counsel for the respondents submits that this clearly illustrates that the petitioner was fully aware about the pending criminal case. Lastly, it is submitted that since the





petitioner was appointed to the disciplined services, therefore his continuance is improper.

13. Considered the submissions of the parties and perused the materials on record.

14. In the present case, a departmental proceeding was initiated against the petitioner for the charge that he has suppressed the material fact regarding his involvement in the criminal case while filling up the Character Verification Form and in the said departmental proceeding he has been found guilty and has been awarded the punishment thereby terminating the services of the petitioner, which has been upheld by the appellate authority.

15. The Hon'ble Supreme Court has laid down the law that how the authorities should proceed in the matter when implication of the applicant in criminal case was suppressed and when the nature of offence was trivial.

16. In *Avatar Singh vs. Union of India (supra)*, the Hon'ble Supreme Court has held as under:-

*“34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, **but ultimate action should be based upon***





objective criteria on due consideration of all relevant aspects.

35. Suppression of “material” information presupposes that what is suppressed that “matters” not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. **Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.**
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.**
- 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.” (emphasis supplied)

17. In the case of **Pawan Kumar vs. Union of India & Anr. (supra)** it has been held as under :-

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





decision regarding continuance / suitability of the employee into service. What has been noticed by this Court is that mere suppression of material / false information in a given case does not mean that the employer can arbitrarily discharge/terminate the employee from service.” (emphasis supplied)

18. In the case of **Ravindra Kumar vs. The State of Uttar Pradesh & Ors. (supra)**, it has been held as under: -

“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.” (emphasis supplied).

19. The Hon’ble Supreme Court in the case of ***Commr. of Police v. Sandeep Kumar***, reported as **(2011) 4 SCC 644**

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 be 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. They 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 v. Crown Office [(1970) 2 QB 114 : (1970) 2 WLR 792 : (1970) 3 All ER 1079 (CA)] , QB at p. 125C-H.)

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

11. As already observed above, youth often commits indiscretions, which are often





condoned.

12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.”

20. Admittedly, the petitioner was made accused in Rahui P.S. Case No. 125 of 2022 registered under Sections 147, 148, 149, 341, 323, 337, 504, 506 of the Indian Penal Code and Sections 3(i)(r)/(s) of the SC & SC Act and Section 27 of the Arms Act, at the instance one of the co-villager of the petitioner but during investigation the parties had filed a joint compromise petition and vide order dated 08.01.2024, the learned trial Court had discharged the petitioner. The thrust of the allegation is not of heinous nature. It appears that the petitioner had under *bona fide* impression thought that the criminal case had been concluded. The petitioner thought that once compromise petition was filed the case had ended but after joining of the petitioner into the services of the SSB, while filling up his character verification form, the petitioner acting under wrong advise had inadvertently not disclosed the aforesaid criminal case. In these circumstances, the declaration





of the petitioner that there is no criminal case pending against him is *bona fide* mistake. Further, the petitioner was appointed as Constable (GD) in the SSB and the impact of such *bona fide* mistake of suppressing the pending criminal case as well as the nature of allegation levelled in the criminal case which had ultimately been compromised between the parties and the learned trial Court having consequently discharged the petitioner, would not make much difference on the suitability of the petitioner for his service.

21. In view of the aforesaid peculiar facts of the present case and also the law laid down by the Hon'ble Supreme Court in the case of *Avatar Singh (supra)*, *Pawan Kumar (supra)* and *Ravindra Kumar (supra)*, I am of the view that the petitioner should not have been terminated because of the pendency of criminal case filed by the co-villager, which was later on compromised and the petitioner being discharged therefrom.

22. For the reasons discussed hereinabove, the impugned orders i.e. order dated 17.01.2025 passed by the Commandant 46 Bn, SSB, Malbazar, Jalpaigudi, West Bengal whereby the service of the petitioner was terminated from the post Constable (GD) and the order dated 28.03.2025 whereby





the appellate authority had rejected the appeal preferred by the petitioner are hereby set aside.

23. The Commandant 46 Bn SSB, Malbazar, West Bengal is directed to accept the joining of the petitioner forthwith.

24. The petitioner shall be entitled to all consequential benefits, in accordance with law.

25. With the aforesaid observations and directions, this writ petition is allowed.

(Sandeep Kumar, J)

P. Kumar

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.10.2025
Transmission Date	NA

