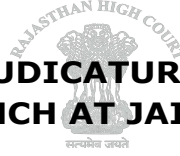




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Writ Petition No. 6793/2020

1. Union Of India, Through General Manager, North Western Zone, North Western Railway (Head Quarter), Near Jawahar Circle, Jagatpura, Jaipur 302017
2. Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer.
3. Senior Divisional Operating Manager, North Western Railway, Ajmer

----Petitioners

Versus

Mahendra Son Of Shri Shanti Lal, Aged About 29 Years, Resident Of House No. 1/24, Badi Nagphani, Boraj Road, Sanjay Nagar, Amba Colony, Ajmer And Aspirant For Appointment to The Post Of Traffic Khallasi, Traffic Department, North Western Railway, Ajmer Division, Ajmer.

----Respondent

For Petitioner(s)	:	Mr. Devesh Bansal Mr. C.P. Sharma
For Respondent(s)	:	Mr. Chandra Bhan Sharma

**HON'BLE MR. JUSTICE SUDESH BANSAL
HON'BLE MR. JUSTICE RAVI CHIRANIA
Order**

06/05/2026

1. By means of instant writ petition under Article 226 of the Constitution of India, challenge has been made to the final order dated 17.03.2020, passed by Central Administrative Tribunal, Jaipur Bench, Jaipur in Original Application No. 641/2015 allowing the Original Application of respondent (original applicant) and quashing the order dated 14.05.2015, whereby and whereunder offer of appointment to respondent on the post of Traffic Khalasi dated 15.09.2014 was cancelled. Simultaneously, Tribunal has issued direction to process the case of respondent for appointment



on the post of Traffic Khalasi pursuant to his order of appointment dated 15.09.2014 within a period of one month and permitted him to join after completion of necessary requirements.

2. Heard counsel for both the parties and perused the material available on record including the order impugned dated 17.03.2020.

3. The relevant facts, in nutshell, are that respondent got appointment on the post of "Trackman" in North Western Railway vide order dated 13.05.2013, pursuant to which he was allowed to join in District Bhilwara. During course of his service, respondent applied and was selected for the post of "Traffic Khalasi". An offer of appointment dated 15.09.2014 was issued to respondent by the department of North Western Railway. In pursuance thereof, in order to join on the post of "Traffic Khalasi"; respondent submitted his resignation from the post of "Trackman"; which was accepted on 14.11.2014 and respondent was relieved. But surprisingly, later on, the offer of appointment of respondent dated 15.09.2014 to join on the post of "Traffic Khalasi" was cancelled by petitioners vide order dated 14.05.2015, on the ground that respondent concealed the factum of his criminal antecedent arising out of FIR No. 167/2006 for offences under Sections 341 and 323 of IPC wherein respondent was convicted for such offences vide judgment dated 11.10.2010 and benefit of probation under Section 4 so also under Section 12 of the Probation of Offenders Act, 1958 (for short, 'the Act of 1958') was extended. The order of cancellation of appointment dated 14.05.2015, was challenged by respondent, by way of filing an Original Application before the Central Administrative Tribunal, which has been allowed vide final



order dated 17.03.2020 by the Tribunal and this order of Tribunal has been questioned by the petitioners in this writ petition.

4. The contention of counsel for petitioners is that it is not in dispute that respondent was an accused in FIR No. 167/2006 and was prosecuted and convicted for offences under Sections 341 and 323 of IPC although, was extended benefit of probation vide judgment dated 11.10.2010, but he concealed such fact and did not disclose his criminal antecedent, hence, on the ground of concealment of criminal antecedent, his offer of appointment dated 15.09.2014 was cancelled vide order dated 14.05.2015 but learned Tribunal erred in quashing the order dated 14.05.2015 and issuing direction to process the respondent's case for appointment on the post of "Traffic Khalasi" pursuant to his appointment letter dated 15.09.2014.

5. Counsel for the petitioners has placed reliance on the judgment of Hon'ble Supreme Court delivered in case of **Satish Chandra Yadav vs. Union of India [(2023) 7 SCC 536]** and has invited attention of this Court to Para No. 93.4 of the judgment which postulates that *"the generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct should not enter the judicial verdict and should be avoided."*

6. Learned counsel for petitioners submits that this judgment was followed by the Division Bench of Rajasthan High Court in **D.B. Special Appeal Writ No. 1651/2019** titled as **Union of India and Ors. vs. Jai Singh Meena** decided vide judgment dated 03.01.2024 and while allowing the appeal, the order of learned Single Judge was quashed and writ petition was



dismissed, affirming the cancellation of appointment order of the writ petitioners on the post of Constable/Driver in CISF. Hence, prayer of counsel for petitioners is that the impugned order of Tribunal be quashed and the order dated 14.05.2015 passed by North Western Railway be restored.

7. *Per contra*, counsel appearing on behalf of respondent, while supporting the impugned order of Tribunal, submits that respondent has not suppressed his criminal antecedent arising out of FIR No. 167/2006 while applying and seeking appointment on the post of Traffic Khalasi. Indeed, such criminal antecedent of respondent could not come to light while granting him appointment on the post of Trackman and petitioners have treated non-disclosure of criminal antecedent by respondent, while getting his previous appointment on the post of Trackman, as a concealment/suppression, to consider his candidature for grant of appointment on the post of Traffic Khalasi, in furtherance to the appointment order dated 15.09.2014 on the post of Traffic Khalasi. Learned counsel for the respondent submits that firstly, there is no concealment of respondent in respect of his criminal antecedent, in the process of seeking appointment/joining; secondly, even if concealment of such a criminal antecedent is considered on the part of respondent, at the time of joining erstwhile on the post of Trackman, same is not material and significant for the reason that the respondent was booked for the alleged offences at his youth age of 20 years and it was a minor scuffle among the students at a computer centre, as much as the nature of offence is trivial which do not impinge to discharge duties of job; thirdly, while recording his conviction for offences



under Sections 341 and 323 IPC vide judgment dated 11.10.2010, respondent had been given benefit of probation under Section 4 as also Section 12 of the Act of 1958 and the benefit of Section 12 of the Act of 1958, extended to respondent may not be ignored/superseded by the petitioners, hence, the cancellation of his offer of appointment by the petitioners vide order dated 14.05.2015 was absolutely arbitrary and unreasonable as also same was done without taking into consideration all other attending relevant aspects, including any nexus between the nature of offence and the nature of job offered to respondent. His submission is that the Tribunal considered all such circumstances and factors and followed the legal proposition as expounded by Hon'ble Supreme Court in landmark judgment of **Avtar Singh vs. Union of India [(2016) 8 SCC 471]** and has rightly quashed the order dated 14.05.2015. According to respondent, the order of Tribunal is well within jurisdiction and parameters of law, which does not warrant any interference by this Court in exercise of writ petition, hence, writ petition deserves to be dismissed.

8. Heard. Considered.

9. This Court finds that following factual aspects are not in dispute:

(i) respondent was booked for offences under Sections 341 and 323 IPC by registering FIR No. 167/2006 on account of a minor scuffle ensued among the students at a computer centre and at that time, respondent was a youth of age 20 years.

(ii) In this criminal case, although the respondent was held guilty for such offences, but the Court extended him benefit of Section 4



so also Section 12 of the Act of 1958 vide judgment dated 11.10.2010. Section 12 of the Act of 1958, postulates a protection against disqualification of an incumbent for the Government employee, on account of his conviction in case benefit of probation is extended to him. For ready reference, Section 12 reads as under :-

"12. Removal of disqualification attaching to conviction.—Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release under section 4 is subsequently sentenced for the original offence."

(iii) Concealment/suppression of such criminal antecedent of respondent does not pertain to the appointment process for the post of Traffic Khalasi, for which his offer of appointment has been cancelled by the petitioners on the ground of concealment.

10. The offences under Section 323 IPC (simple hurt) and Section 341 IPC (wrongful restraint) may not be considered of heinous and grave nature, moreso when charges of such offences are leveled and dealt with against the youth, during the age of late teens and merely about twenties. At that age, a youth undergoing studies, happens to be in the process of emotional and intellectual development. Youth, indeed, needs a reformatory approach to the indiscretions committed, accidentally or unintentionally only in heat of moments and minor nature of youth indiscretions, may not be and should not be considered to tarnish his/her future permanently. At this age, youth often acts impulsively, some times make decisions which are not well



thought out. Furthermore, minor indiscretions of a youth, should not be equated with the crime of heinous or serious nature and the administrative authorities, must keep the principle of proportionality in mind. Moreso when, for trivial nature of offence, Court had extended benefit of probation under Section 3 or 4 so also of Section 12 of the Act of 1958, which postulates that notwithstanding anything contained in any other law, a person found guilty of offence and dealt with under the provision of Section 3 or Section 4, shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

11. Learned Tribunal, after taking into consideration such factual aspects, observed in the order impugned that the applicant (respondent herein) may not be held guilty of concealment/suppression of his criminal antecedent in respect of appointment process for the post of Traffic Khalasi. Tribunal observed that if any concealment/suppression on the part of the respondent was there, then same was in respect of the appointment on the post of Trackman from which applicant has already resigned. Further, considering the trivial nature of offences and extension of benefit of Section 12 to respondent, same could not have been of that such material, due to which appointment to respondent would have been declined, even if disclosed by him.

12. Coming to the legal proposition, learned Tribunal considered the alleged concealment/suppression as immaterial and insignificant in the light of criteria prescribed by Hon'ble Supreme Court in case of **Avtar Singh (supra)**. Tribunal has noted Para No. 38 of the judgment of Avtar Singh (supra) which reads 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

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."

(underline supplied)

13. As far as judgment of Hon'ble Supreme Court in case of **Satish Chandra Yadav (supra)**, referred and relied upon by counsel for petitioners and followed by the Co-ordinate Bench of this High Court in case of **Jai Singh Meena (supra)**, it is suffice to observe herein that *ratio decidendi* of this judgment was considered by Hon'ble Supreme Court in a subsequent judgment in case of **Ravindra Kumar vs. State of Uttar Pradesh and Ors. reported in (2024) 5 SCC 264**, in contrast to the *ratio decidendi* expounded by Hon'ble Supreme Court in case of **Avtar Singh (supra)** and finally, following was held and observed in relevant Para Nos. 23 and 30 of the judgment, which are being reproduced hereunder :-

"23. As would be clear from **Avtar Singh (Supra)**, it has been clearly laid down that though a person who has suppressed the material information cannot claim unfettered right for appointment, he or she has a right not to be dealt with arbitrarily. The exercise of power has to be in a reasonable manner with objectivity and having due regard to the facts. In short, the ultimate action should be based upon objective criteria after due consideration of all relevant aspects.



30. We have read and understood the broad principles laid down in **Satish Chandra Yadav (supra)** with the following crucial para in **Avtar Singh (Supra)**:

"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."

(emphasis supplied)

14. In case of **Jai Singh Meena (supra)**, concealment of criminal antecedent, by incumbent, for offences under Section 498A, 406 IPC in the process of obtaining service in disciplined force of CISF was considered as fatal, hence, his appointment was cancelled. This Court, being abided by the proposition of law expounded by Hon'ble Supreme Court in case of **Ravindra Kumar (supra)** and taking into consideration the entirety of factual aspect, including the relevant factum of trivial nature of offences, grant of benefit of Section 12 of the Act of 1958 to respondent and the nature of job of the post of Traffic Khalasi, finds that all such factors have not been considered by the petitioners, while cancelling the offer of appointment of respondent vide order impugned dated 14.05.2015. In that view, the order impugned dated 14.05.2015 stands apparently arbitrary, unreasonable and has not been passed with objectivity after extending due regard to the all other attending facts and circumstances of the present case. Thus, the Tribunal has not erred in quashing and setting aside the impugned order dated 14.05.2015.



15. Before parting with, this Court finds that in the order dated 14.05.2015, the concerned authorities of North Western Railway (NWR) superseded the judicial verdict of Court, granting benefit of Section 12 of the Act of 1958 to the respondent in the judgment dated 11.10.2010 and same has attained finality, yet in the order impugned dated 14.05.2015, authority of Railways declined to extend benefit of Section 12 to the respondent. Such an approach of the concerned authorities of NWR, sitting over the judgment of a judicial Court, may not be countenanced and is deprecated.

16. The upshot of discussion as enunciated hereinabove is that order impugned dated 17.03.2020, passed by the Tribunal does not warrant any interference by this Court in exercise of writ jurisdiction and the present writ petition being devoid of any substance is hereby dismissed.

17. Stay application and all other pending application(s), if any, also stand disposed of.

(RAVI CHIRANIA),J

(SUDESH BANSAL),J