

**SUPREME COURT OF INDIA**

**Bench: Pankaj Mithal, J. and ABHAY S. OKA**

**Date of Decision: 20 October 2023**

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1183 OF 2012

**THE DIRECTOR GENERAL OF POLICE TAMILNADU, MYLAPORE**

**... APPELLANT**

**Versus**

**J. RAGHUNEES**

**... RESPONDENT**

**Section, Acts, Rules, and Article:**

Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978

Sections 341, 323, 324, 506 of the Indian Penal Code

- Avtar Singh case (Reference)

**Subject:** Employment Eligibility, Suppression of Material Information, Character and Antecedents in Recruitment, Consequences of Non-Disclosure

**Headnotes:**

*Employment Eligibility – Suppression of material fact regarding involvement in a criminal case – Respondent’s selection as Grade-II Constable – Inquiry revealed his involvement in a criminal case, followed by acquittal – Respondent failed to disclose this information during verification. [Para 5-7]*

*Verification Roll – Column 15 inquiry about any past or present involvement in a criminal case – Respondent answered ‘NO’ despite prior involvement and subsequent acquittal – Misleading information amounting to suppression of facts. [Para 11-12]*

*Employment Eligibility vs. Suppression of Information – Legal position summarized – Candidate must provide truthful information about convictions, acquittals, arrests, or pending criminal cases – Employer retains the right to consider antecedents even with truthful declaration – In this case, non-disclosure of involvement and subsequent acquittal raises doubts about character and antecedents, justifying disqualification. [Para 14-16]*

*Decision – Division Bench’s decision in writ appeal set aside – Writ court’s judgment restored – Respondent’s writ petition dismissed – No costs awarded. [Para 17-18]*

**Referred Cases:****Avtar Singh vs Union of India Ors., (2016) 8 SCC 471****J U D G M E N T****PANKAJ MITHAL, J.**

1. The Director General of Police, Tamil Nadu, Chennai has preferred this appeal against the final judgment and order dated 24.04.2009 passed by the Division Bench of the High Court allowing writ appeal no. 1487 of 2008 filed by the respondent, J. Raghunees, after setting aside the judgment and order of the Single Judge dismissing the writ petition.
2. In short, the judgment and order of the Division Bench is of reversal. The order dismissing the writ petition of the respondent was set aside in the writ appeal by the Division Bench and the writ petition was ultimately allowed.
3. The respondent was selected for the post of Grade-II Constable after he qualified the written test. Upon his selection, his antecedents were inquired into and in that connection an exercise for verification of his character and other antecedents was undertaken. In the discreet inquiry conducted for the purpose of the aforesaid verification, it was revealed that the respondent was involved in a criminal case registered as case crime no. 392 of 1997 for offences under Sections 341, 323, 324 and 506(II) of Indian Penal Code. The respondent was the third accused in the said case. He was acquitted in the said case by the Trial Court vide judgment and order dated 19.02.2001 but these facts were not disclosed by him.
4. Though there is some controversy as to the nature of the aforesaid acquittal i.e., whether it was an honorable acquittal or an acquittal by giving benefit of doubt but the same is not very material for us in the present appeal. Nonetheless, it may be pertinent to note that the writ court recorded a finding

upon consideration of the judgment and order of acquittal dated 19.02.2001 that the charges were not proved against the respondent beyond reasonable doubt and the acquittal of the respondent was not strictly on the basis of doubt but because of want of evidence and as such it was an honorable acquittal. Notwithstanding as to whether the respondent was acquitted by giving benefit of doubt or was acquitted honorably, the issue before us is quite different and does not depend upon the nature of the acquittal.

5. The issue which has given rise to this appeal is that whether the respondent is guilty of suppression of material fact with regard to his involvement in the above criminal case so as to disentitle him to employment.
6. The authorities vide order dated 09.11.2004 held that the respondent was not entitled to appointment as he was guilty of suppressing material fact by not stating about his involvement in the criminal case while filling up column 15 of the attestation form.
7. The above order was challenged by the respondent by means of a writ petition before the High Court, which was dismissed but in writ appeal the judgment and order of the Learned Single Judge was set aside and the writ appeal was allowed on the reasoning that the respondent was acquitted from the criminal case much before the verification and therefore, the respondent rightly thinking that his involvement in the criminal case is of no relevance *bona fide* failed to mention about the same and as such suppression of this information cannot be considered to be willful or intentional so as to deprive him of service pursuant to his selection.
8. The Tamil Nadu Special Police Subordinate Service Rules, 1978 provides for the eligibility criteria for the recruitment and appointment in the State Police Service. It, *inter alia*, provides that no person shall be eligible for the appointment to the service by direct recruitment unless his character and

antecedents are such as to qualify him for such service. For the sake of convenience, the relevant

Rule 14(b) is reproduced below:

***“Extract of Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules 1978***

*14(b) No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority.*

- i) that he is of sound health, active habits and free from any bodily defect or infirmity unfitting him for such service and*
- ii) that the character and antecedents are such as to qualify him for such service.*
- iii) that such a person does not have more than one wife living.”*

9. The aforesaid rule only provides for the eligibility criteria and that, apart from other things, the character and antecedents of the candidate are relevant and material factor for giving him entry in the service. Additionally, the respondent was required to disclose certain information about himself by filling the verification roll. The said verification roll is very relevant and important for the purposes of the present case, especially its column 15 and in particular the language of the said column which reads as under: -

***“15 - Have you ever been concerned in any criminal case as defendant?”***

- 10. The aforesaid column in unequivocal terms inquires from the candidate about his involvement in any criminal case whether in past or present and unaffected by its status or result.
- 11. The respondent in filling up the said verification roll in reply to the query made in the aforesaid column stated ‘NO’ meaning thereby he clearly stated that he had not been involved in any criminal case.
- 12. Apparently in the admitted facts, the respondent was involved in a criminal case but had been acquitted therefrom. Thus, it cannot be said that the respondent was not concerned with any criminal case. Therefore, he ought to have disclosed the correct position that he was involved in a criminal case

but had been acquitted. The respondent instead of giving the full and complete information as above simply stated 'NO' as if he was never involved in any criminal case. The answer of the respondent to the question posed in column 15 of the verification roll undoubtedly conveys the wrong information and amounts to the suppression of the correct information.

13. The issue in the matter is not of eligibility of the respondent to the post in the light of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978 rather that of suppression of material information which was required to be disclosed in column 15 of the verification roll. The respondent has certainly not disclosed the correct information. His honorable acquittal or acquittal by giving benefit of doubt is not material and relevant but what is relevant is the full and complete disclosure of the information regarding his involvement in a criminal case which has been suppressed by him.

14. In **Avtar Singh<sup>1</sup>** case, a three-Judge Bench of this Court while dealing with a similar kind of situation summarised the legal position by stating that **(i)** Information given by the candidate to the employer as to his conviction, acquittal, 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. **(ii)** In cases where conviction or acquittal had already taken place before filling the application/verification form, the employer may consider all relevant facts available as to antecedents and may take appropriate decision as to the continuance of the employee. **(iii)** and even if the employee had made truthful declaration of a concluded criminal case, the employer still has the right to consider antecedents of the candidate/employee and cannot be compelled to appoint him/her.

15. In other words, the candidate in the first instance is obliged to give correct information as to his conviction, acquittal or arrest or pendency of the criminal case and there should be no suppression or false mention of required information. Secondly, even if truthful declaration is made by him, he would

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<sup>1</sup> Avtar Singh vs Union of India Ors., (2016) 8 SCC 471

not be entitled to appointment as a matter of right and that the employer still has the right to consider his antecedents.

16. In the case at hand, though the respondent may be eligible for appointment but since he has not disclosed the complete information with regard to his involvement in a criminal case, wherein he might have been acquitted earlier even before verification, he cannot escape the guilt of suppressing the material information as required by column 15 of the verification roll. Keeping in mind that the respondent was a candidate for recruitment to a disciplined force, the non-disclosure of the information of his involvement in the criminal case and subsequent acquittal therefrom cast a serious doubt upon his character and the antecedents which is sufficient enough to disentitle him from employment.
17. In view of the aforesaid facts and circumstances, the judgment and order of the Division Bench passed in writ appeal cannot be sustained in law and is hereby set aside restoring that of the writ court.
18. The appeal is allowed and the writ petition stands dismissed. There shall be no order as to costs.

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