

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6099 OF 2018
(Arising out of SLP(C)NO.25320/2017)

VIRENDRA KUMAR ... Appellant(s)

VERSUS

UNION OF INDIA & ORS. ... Respondent(s)

O R D E R

1. Leave granted.
2. The High Court ought not to have dismissed the writ application, as has been done in the impugned judgment and order dated 21.6.2017. This Court has considered the matter in its judgment rendered on 21.7.2016 in Avtar Singh Vs. Union of India and Ors., (2016) 8 SCC 471, and has made the following observations :

"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.

XXXX

XXXX

XXXX

38. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus:

..2/-

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 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 recourse appropriate to the case may be adopted : -

(a) 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.

(b) Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

(c) 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

..3/-

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 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.

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

..4/-

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."

2. Let the employer consider the aforesaid factum and take a decision in accordance with the decision rendered by this Court in Avtar Singh (Supra), within three months.
3. Let appropriate representation be filed within 15 days from today.
4. In view of the above, impugned orders are set aside accordingly. The appeal is allowed. Pending applications stand disposed of.

.....J.
[ARUN MISHRA]

.....J.
[NAVIN SINHA]

New Delhi;
4th July, 2018.

ITEM NO.47

COURT NO.8

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).25320/2017

(Arising out of impugned final judgment and order dated 21-06-2017
in WP No.6839/2017 passed by the High Court Of M.P. Principal Seat
At Jabalpur)

VIRENDRA KUMAR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 04-07-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. Abhishek Gupta, AOR

For Respondent(s) Mr. Pranay Ranjan, Adv.
Mr. Harish Pandey, Adv.
Mr. Raj Bahadur, AOR
Mrs. Anil Katiyar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Sarita Purohit)
Court master

(Jagdish Chander)
Branch Officer

(Signed order is placed on the file)