

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). 20525/2011

(Arising out of impugned final judgment and order dated 02-12-2010 in LPA No.951/2010 passed by the High Court of Punjab and Haryana at Chandigarh)

AVTAR SINGH

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS

Respondent(s)

WITH

SLP(C) No. 24320/2014 (XIV)

SLP(C) No. 4757/2014 (XVI-A)

Date : 15-11-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH

HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s)	Ms. Kiran Suri, Sr. Adv. Ms. Hari Priya, Adv. Ms. Gunwant Dara, Adv. Mr. B.V. Balram Das, Adv. Mr. B. Krishna Prasad, AOR  Mr. Pahlad Singh Sharma, AOR  Mr. A.K. Behera, Adv. Mr. Gyanendra Singh, Adv. Mr. Vishwa Pal Singh, AOR
For Respondent(s)	Mr. Rajshekhar Rao, Adv. Mr. Sameer Dawar, Adv. Mr. Abhinav Mukerji, AOR

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

Leave granted.

The appeals are disposed of in terms of the signed judgments.

(NARENDRA PRASAD)  
COURT MASTER

(RENU DIWAN)  
ASST. REGISTRAR

(Three separate signed "Non-Reportable" Judgments are placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 18798/2017  
(ARISING FROM SLP(C) No.20525/2011)

AVTAR SINGH

APPELLANT (S)

VERSUS

UNION OF INDIA AND ORS

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. This is a case in which the appellant was terminated from service on account of suppression of his involvement in a criminal case. He was enlisted for appointment in CRPF on 24.08.1994. He submitted a verification form on 9.12.1994. Column No.12 belonged to involvement in any criminal case. That was left unfilled.

3. On subsequent verification it was found that an FIR had been registered against him on 28.10.1992 under Sections 323, 324 read with Section 34 IPC. He was acquitted by judgment dated 2.5.1994. But, an appeal at the instance of the respondent(s) was pending when the termination took place. The High Court has upheld the termination.

4. In Avtar Singh v. Union of India and Others,

reported in (2016) 8 SCC 471, this Court has considered in detail as to the circumstances under which the stringent action could be taken and to what extent the employer can exercise its discretion.

Relevant portion reads as follows:-

"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 :

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 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 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."

5. In view of the judgment in Avtar Singh (supra), operative portion of which we have extracted above,

we direct the Appointing Authority to consider afresh the case of the appellant in the light of the law laid down by this Court and subsequent development pertaining to the order passed in appeal and pass appropriate orders thereon.

6. We make it clear that a speaking order will be passed.

7. In order to enable the Appointing Authority to pass orders, as above, we direct the appellant to file an appropriate representation before the Appointing Authority and the Appointing Authority will pass orders, in accordance with law, within four months from the date of receipt of a representation after affording an opportunity of hearing to the appellant.

8. The appeal is disposed of as above.

9. Pending applications, if any, shall stand disposed of.

10. There shall be no orders as to costs.

.....J.  
[KURIAN JOSEPH]

.....J.  
[R. BANUMATHI]

NEW DELHI;

NOVEMBER 15, 2017.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 18800/2017  
(ARISING FROM SLP(C) No.24320/2014)

VIKRAM SINGH

APPELLANT(S)

VERSUS

THE COMMISSIONER OF POLICE

RESPONDENT(S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. The appellant is before this Court, aggrieved by the cancellation of candidature for selection for appointment as a constable under the respondent. It is on the ground that the appellant had suppressed some information regarding involvement in the criminal cases.

3. The law on the said issue has been laid down by this Court in Avtar Singh v. Union of India and Others, reported in (2016) 8 SCC 471, which reads as follows:-

"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 :

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 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 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."

4. Though the learned counsel appearing for the appellant made strenuous submissions to contend for the position that the lapses, if any, are only to be condoned since everything occurred prior to the filing of the application and the appellant had already been acquitted also even before filing of the application. As rightly pointed by Ms. Kiran Suri, learned senior counsel, appearing for the respondent, if at all anything is to be done it can only be on consideration by the respondent of all the relevant aspects, in the light of the judgment referred to

above.

5. Accordingly, this appeal is disposed of as follows:-

The appellant is permitted to file a detailed representation before the respondent, within a period of one month from today. In the event of filing of such a representation, the respondent will consider the same in the light of the judgment referred to above and pass a reasoned order after affording an opportunity of hearing to the appellant, within a period of four months thereafter.

We make it clear that the judgment of the High Court shall not stand in the way of the respondent/Commissioner of Police passing orders, as above.

6. Pending applications, if any, shall stand disposed of.

7. There shall be no orders as to costs.

.....J.  
[KURIAN JOSEPH]

.....J.  
[R. BANUMATHI]

NEW DELHI;

NOVEMBER 15, 2017.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 18799/2017  
(ARISING FROM SLP(C) No.4757/2014)

UNION OF INDIA & ORS.

APPELLANT(S)

VERSUS

AMIT SINGH

RESPONDENT(S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. The appellants are before this Court, aggrieved by the judgment of the learned Single Judge of the High Court, as confirmed by the Division Bench, wherein the termination of the respondent has been found to be illegal. The respondent was terminated from service on the basis of information gathered, on verification of the antecedents. Though it was done after three years of entering service, it was found that the respondent had been involved in a criminal case.

3. According to the learned counsel for the respondent, it was a trivial issue between the friends in a cricket match and hence the same was compounded by the learned Magistrate. In any case,

all this had happened much prior to his filing of application for appointment.

4. In a recent judgment of this Court in Avtar Singh v. Union of India and Others, reported in (2016) 8 SCC 471, this Court has dealt with the issue. The relevant portion of the judgment reads as follows:-

“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 :

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 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 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."

5. Having regard to the facts and circumstances of

the case, we are of the view that this is a case where the respondent should be permitted to file an appropriate representation before the Appointing Authority. Ordered accordingly. In the event of such a representation is filed, in the light of the judgment referred to above and in particular paragraph 38.4.1 of the judgment read with any other relevant instructions, a speaking order on the representation shall be passed after affording an opportunity for hearing to the respondent, within four months.

6. We make it clear that while passing the orders, as above, the Appointing Authority will also verify whether there was involvement of the respondent in any other criminal case, his age at the time of incident, his conduct during the period of service and also the fact that he has served for around five years under the CRPF.

7. The impugned judgment is set aside. The appeal is, accordingly, disposed of.

8. Pending applications, if any, shall stand disposed of.

9. There shall be no orders as to costs.

.....J.  
[KURIAN JOSEPH]

.....J.  
[R. BANUMATHI]

NEW DELHI;  
NOVEMBER 15, 2017.