



**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**AND**

**THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO**

**WRIT PETITION Nos.33306 of 2012, 17758 of 2013, 24990 of 2014 and 29006 of 2018**

**COMMON ORDER:-** *(Per Hon'ble Sri Justice Cheekati Manavendranath Roy)*

As common issue is involved in all these Writ Petitions, they are heard together and they are being disposed of by this common order.

2. The Andhra Pradesh Administrative Tribunal, Hyderabad, (for short, "the Tribunal), by the impugned orders, has set aside the orders of the appointing authority cancelling the selection of respondents in two writ petitions as Police Constables and the respondent in other writ petition as Reserve Sub-Inspector (AR) and in the other writ petition, discharging the respondent therein, who was already appointed as Constable and was in training in probation. The said cancellation of the selection and discharge of the other respondent was made on the common ground that they suppressed their earlier involvement in criminal cases in the attestation forms submitted by them.

3. Aggrieved by the impugned orders of the Tribunal passed in all the O.As, the State has preferred these Writ Petitions, against the orders of the Tribunal questioning the legal validity of the said orders.

4. Heard learned Government Pleader for Services-I appearing for the petitioners and learned counsel appearing for the respondents.



5. The respondents in W.P.Nos.33306 of 2012, 17758 of 2013 and 24990 of 2014 were initially selected as Police Constables in the State police service. The respondent in W.P.No.29006 of 2018 was selected as Reserve Sub Inspector (AR). As they were found to be qualified and eligible for appointment as Police Constables and Reserve Sub Inspector (R.S.I.) respectively, they were duly selected as Police Constables and R.S.I. The respondent in W.P.No.33306 of 2012 was also appointed after his selection and he was undergoing training as a Police Constable. While he was in training, it is noticed by the authorities of the Police Department that he has suppressed the factum of his earlier involvement in a criminal case registered against him for the offence punishable under Section 324 r/w 34 of the Indian Penal Code, 1860 (for short "I.P.C.") in the attestation form that was submitted by him before his appointment. Therefore, as he was in probation and was undergoing training, he was discharged from the service on the ground of suppression of the factum of his involvement in the criminal case in the attestation form. The other respondents, who were selected as two Constables and as R.S.I., were also found to have suppressed the fact of their involvement in the earlier criminal cases in the attestation forms that were submitted by them. Therefore, on the ground that they suppressed the information relating to their involvement in the criminal cases in the attestation forms in the relevant columns, their selection was cancelled.



6. Therefore, all the respondents have filed original application before the A.P. Administrative Tribunal, questioning the legal validity of the said orders of cancellation of the selection and also discharge of one of the respondents. The Tribunal by the impugned orders, has set aside the said orders of cancellation of selection of the respondents and discharge of the other respondent.

7. Aggrieved thereby, the present writ petitions have been filed by the State, assailing the legal validity of the impugned orders of the Tribunal.

8. Learned Government Pleader for Services-I vehemently contended that as all the respondents are selected as Police Constables and R.S.I. (AR), which is a disciplined service, they are required to disclose the information fairly in the attestation forms that are submitted by them informing the Department that they are earlier involved in criminal cases, even though they are acquitted in the said cases and as they have deliberately suppressed the said information in their attestation forms, it would have effect on their character and antecedents and the Appointing Authority, considering their conduct in suppressing the material information relating to their involvement in criminal cases, has rightly exercised its discretion and cancelled their selection and also discharged one of the respondents from the service as they are not found to be suitable for appointment to the said posts as Constables and R.S.I. He would submit that the rules relevant in the context



clearly mandate that a person, who is selected or appointed, is found to have suppressed the material information relating to his involvement in a criminal case in the attestation form, that by itself would incur his disqualification to be appointed to the said post of Constable and R.S.I. and their selection is liable to be cancelled.

9. In support of his contention, learned Government Pleader for Services-I placed strong reliance on the Judgment of the Apex Court in the case of **Satish Chandra Yadav v. Union of India and others**<sup>1</sup>, wherein all the earlier precedents rendered on the point were discussed and held that suppression of information in the attestation forms relating to involvement in the criminal cases would incur disqualification of the candidate for selection and appointment and that the said selection can be cancelled or the employee, who was appointed and was in probation, can be discharged.

10. Per contra, learned counsel for the respondents would submit that even though the respondents were involved in criminal cases, the said criminal cases are of trivial in nature and they are not the offences involving moral turpitude as all the cases registered against the respondents are only under Sections 324 r/w 34 of I.P.C. and other trivial offences like 509, 506 of I.P.C. etc. They further contended that all the respondents were also acquitted in all the said criminal cases even before the notification was issued for selection. It is further

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<sup>1</sup> **2022 SCC OnLine SC 1300**



contended that the said cases were registered against them during their young age when they were 18 years and below. Relying on the Judgment of the Apex Court rendered in the case of **Commissioner of Police and others v. Sandeep Kumar**<sup>2</sup>, which was also relied on by the Tribunal in the orders, they would contend that the impugned orders of the Tribunal are perfectly sustainable under law and they warrant no interference in these writ petitions and thereby prayed for dismissal of the writ petitions.

11. We have carefully considered the submissions made by both the learned Government Pleader for Services-I for the writ petitioners and the learned counsel for the respondents and the Judgments cited by them at the time of hearing.

12. As noticed supra, the selection of the respondents as Constables and as R.S.I. was cancelled on the sole ground that they suppressed the information relating to their earlier involvement in the criminal cases registered under Sections 324 r/w 34 of I.P.C. and in other cases under Sections 324, 506 and 509 of I.P.C. in the attestation forms submitted by them. Even in the other writ petition, the respondent was discharged from the service after he was appointed and while he was in training on the same ground of suppression of information relating to his earlier involvement in a criminal case in the attestation form submitted by him. No doubt, as per the relevant rules in vogue, non-

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<sup>2</sup> (2011) 4 SCC 644



disclosure of information by a selected candidate relating to his involvement in the criminal case in the attestation form would lead to cancellation of his appointment or discharge from service. But it is relevant to note here that when the offences relating to the criminal cases, in which the respondents are earlier involved, are not grave offences involving moral turpitude and they are all trivial in nature and they were already acquitted in the said criminal cases, the authority concerned has to consider the said factum of non-disclosure of the said information along with their other antecedents to decide whether they are suitable for selection in the said post and for appointment or not. If their other antecedents are found to be bad, then considering the antecedents which are adverse against the candidates along with their conduct of non-disclosure of the said information relating to the earlier involvement in the criminal cases, a decision has to be taken by the appointing authority as to whether they are suitable for the selection or not and then pass appropriate order to that effect. But when there is no material on record that their other antecedents are bad, the selection in the normal course should not be cancelled on the sole ground of non-disclosure of the said fact relating to their involvement in the earlier criminal cases and that too when they were already acquitted in the said cases.

13. In fact, in the Judgment relied on by the learned Government Pleader for Services-I in **Satish Chandra Yadav (1 supra)** case itself,



the earlier Judgment of the Apex Court rendered in the case of **Pawan Kumar v. Union of India**<sup>3</sup> laying down the above proposition of law was referred.

14. That was a case where a case under Sections 148, 149, 323, 356 and 506 of I.P.C. was registered against the person, who was selected for the post. He was acquitted in the said case. However, he did not disclose in his attestation form regarding his earlier involvement in the criminal case. On the said ground, he was discharged from the service. The High Court upheld the discharge. When the same was challenged before the Supreme Court, the Apex Court at para No.13 of the Judgment held as follows:

*“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 being 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.”*

15. Further held at para No.18 as follows:

*“The criminal case indeed was of trivial nature and the nature of post and nature of duties to be discharged by the recruit has never been looked into by the competent authority while examining the overall suitability of the incumbent keeping in view*

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<sup>3</sup> 2022 SCC OnLine SC 532



*Rule 52 of the Rules 1987 to become a member of the force. Taking into consideration the exposition expressed by this Court in Avtar Singh (supra), in our considered view the order of discharge passed by the competent authority is not sustainable....”*

16. Thus, as can be seen from the ratio laid down by the Apex Court in the above Judgment, mere suppression of information relating to their earlier involvement in a criminal case, in which they were acquitted, by itself cannot be sole ground for cancellation of the selection or discharge of the employee from the service. The said non-disclosure of the information is to be considered along with the other relevant facts and circumstances available as to antecedents of the candidate to decide whether he is suitable to be selected and recruited for the said post or not. In the instant case, the other relevant facts and the antecedents of the respondents are not at all taken into consideration at the time of passing the orders cancelling the selection or discharging the other respondent from the service. In fact, it is not at all the case of the writ petitioners that the antecedents of the respondents are found to be bad and that they are not found to be suitable for selection and recruitment in the said posts.

17. Even the Three-Bench Judgment of the Apex Court in the case of ***Avtar Singh v. Union of India and others***<sup>4</sup>, wherein certain

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<sup>4</sup> (2016) 8 SCC 471





parameters are laid down to decide cases of like nature held at para Nos.38.4 and 38.4.1 as follows:

*“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 : -*

*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.”*

18. Further held that even in a case where the candidate is involved in the offence involving moral turpitude, he was not normally acquitted, that still the employer may consider all the relevant facts available as to antecedents and may take appropriate decision as to continuance of the employee or not.

19. Thus, from the ratio laid down even in the aforesaid Three-Bench Judgment of the Apex Court, even when the candidate is found to have suppressed information relating to his earlier involvement in a criminal case, a wide discretion is given to the employer to consider the said fact along with other antecedents to take appropriate decision regarding his suitability for selection and recruitment to the said post. Even if the acquittal of a candidate, who was involved in any offence involving moral turpitude was not honourably acquitted, then also wide discretion is given to the



employer to consider the same along with other antecedents of the candidate to take appropriate decision in this regard.

20. Therefore, when the validity of the orders passed cancelling the selection of the respondents and discharge of the other respondent, is tested on the touch stone of the aforesaid principles laid down by the Apex Court, it is clear that the employer did not exercise his discretion which is a wide discretion conferred on the employer or the Appointing Authority properly in terms of the above guidelines that are prescribed by the Apex Court. As already noticed supra, there is nothing to indicate on record that the antecedents of the respondents or otherwise bad so as to take an extreme decision of cancelling their selection and discharging the other respondent from the service on the sole ground of non-disclosure of information relating to their earlier involvement in the criminal cases, in which they were already acquitted and which are all trivial in nature, which do not involve any moral turpitude.

21. It is also apt to note the observations of the Apex Court in the case of **Commissioner of Police and others v. Sandeep Kumar (2 supra)** at para Nos.9 and 10 in the present context, which reads thus:

*“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."*

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

22. Ultimately, at para No.12, the Apex Court held as follows:

*"It is true that in the application form the respondent did not mention that he was involved in a criminal case under Section 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, decoity or rape, and hence a more lenient view should be taken in the matter.”*

23. The Tribunal relied on this Judgment and has taken a lenient view and has set aside the orders of cancellation of the selection and discharge of the other respondent from service.

24. It is relevant to note here that in all these cases, the respondents were involved in the said cases relating to trivial offences during their young age. Therefore, the observation made by the Apex Court and the ratio laid down in the above Judgment squarely applies to the present facts of the case. Further, in these cases, the respondents were already acquitted even before notification for selection was issued.

25. Therefore, in view of the law laid down in the above Judgments, we are also of the considered view that as the respondents were otherwise found to be eligible for selection and for recruitment in the said posts, the cancellation of their selection and discharge of other respondent from service on the sole ground of non-disclosure of the information relating to their earlier involvement in the criminal cases in which they were acquitted of the said trivial offences, is legally not sustainable.

26. We are also of the considered view that the impugned orders of the Tribunal are perfectly sustainable under law and the said orders



are passed on the basis of the law laid down by the Apex Court, which is clearly discussed in the said orders. Therefore, we do not find any legal flaw or infirmity or patent illegality in the impugned orders warranting interference of this Court with the said orders. We affirm the orders of the Tribunal.

27. Resultantly, the Writ Petitions are dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any pending, in the Writ Petition, shall stand closed.

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**JUSTICE CHEEKATI MANAVENDRANATH ROY**

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**JUSTICE V. GOPALA KRISHNA RAO**

Date: 26.04.2023

Note:

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**IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI**

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**WRIT PETITION Nos.33306 of 2012, 17758 of 2013, 24990 of 2014 and  
29006 of 2018**

**W.P.No.33306 of 2012:**

Between

The State of Andhra Pradesh,  
Represented by its Principal Secretary,  
Home Department,  
Andhra Pradesh Secretariat Hyderabad  
and three others

... Petitioners

and

Vadde Pavan Kumar, S/o V.Sreenivasulu,  
Un-employee, R/o Akuledu Village,  
Singanamala Mandal, Anantapur District

.. Respondent

**DATE OF JUDGMENT PRONOUNCED: 26-04-2023**

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**AND**

**THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO**

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | --- |
| 2. | Whether the copies of judgment may be marked to Law Reports/Journals?      | Yes |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes |

**CHEEKATI MANAVENDRANATH ROY, J.**



**\* THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY  
AND**

**THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO**

**+ WRIT PETITION Nos.33306 of 2012, 17758 of 2013, 24990 of 2014 and  
29006 of 2018**

**% DATE: 26-04-2023**

**W.P. No.33306 of 2012:**

# The State of Andhra Pradesh,  
Represented by its Principal Secretary,  
Home Department,  
Andhra Pradesh Secretariat Hyderabad  
and three others

... Petitioners

Vs.

\$ Vadde Pavan Kumar, S/o V.Sreenivasulu,  
Un-employee, R/o Akuledu Village,  
Singanamala Mandal, Anantapur District

... Respondent

! Counsel for the petitioner(s) : G.P. for Services-I  
^Counsel for respondent(s) : Sri S.V.S.S.Siva Ram

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➤ Head Note:

? CASES REFERRED:

- 1) 2022 SCC OnLine SC 1300
- 2) (2011) 4 SCC 644
- 3) 2022 SCC OnLine SC 532
- 4) (2016) 8 SCC 471