

# SUPREME COURT OF INDIA

Union of India

Vs.

Amit Singh

C.A.No.18799/2017

(Kurian Joseph and R.Banumathi,JJ.,)

15.11.2017

## JUDGMENT

**Kurian Joseph,J.,**

SLP(Civil)No.4757/2014

1. 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 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'*, 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.