

# Delhi Transport Corporation (Dtc) ... vs Manohar Lai (Driver) Batch No. 26775 ... on 4 February, 2025

**Author: C. Hari Shankar**

**Bench: C. Hari Shankar**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

LPA 13/2021, CM APPLs. 790/2021 & 66267/2023

DELHI TRANSPORT CORPORATION (DTC) THROUGH

ITS CHAIRMAN

.....Appella

Through: Ms. Manisha Tyagi, Adv. with

Ms. Monika, Adv.

versus

MANOHAR LAI (DRIVER) BATCH NO. 26775

TOKEN NO. 68780

....Respon

Through: Ms. Kaadambari Singh, Sr.

Adv. with Ms. Muskaan Chawla, Ms. T

Singh Kaurav and Ms. Rishabh Gupta,

Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

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04.02.2025

C. HARI SHANKAR, J.

1. Under challenge, in this Letters Patent Appeal, is the judgment dated 27 January 2020 of a learned Single Judge of this Court in WP(C) 6558/2017.

2. The facts are brief.

3. The services of the respondent were terminated by the petitioner This is a digitally signed order.

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"DELHI TRANSPORT CORPORATION S.N. DEPOT: NEW DELHI No. DM/SND/  
AI(T)/2013/3809 DT: 8.11.13 On concealing the facts in CVR a charge sheet was

issued by disciplinary authority vide letter No. GPD/AI(T)/C-26/1105 dated 9.8.12 in which charges leveled against driver has been proved by EO (SBU) and accepted by you during the course of enquiry. And whereas after considering the enquiry report Sh. Manohar Lal Driver B.No. 36775, T.No. 68780 was served a show cause notice No. DM/SND/AI(T)/13/3687 dated 4.11.13 proposing to impose upon him penalty of termination from the services of this corporation.

And whereas Sh. Manohar Lal Driver B.No. 36775 T.No. 68780 the reply submitted by him vide Diary No. SN/5361 dated 8.11.13 has not found satisfactory.

Now after carefully examining the material the case file the proposed punishment is hereby confirmed as follows:

He is hereby terminated from the services of this Corporation w.e.f. 9.11.13 under clause 9 (a)(1) of DRTA (Conditions of Appointment and Services) Regulation, 1952.

He is required to deposit all the DTC articles in his possession with the I/c Livery Section within 24 hrs. of the receipt of this Memo Non deposit of DTC articles by him in accordance with instructions contained in Office Order No. 21 dated 27.1.1954 will lead to pay a penalty of Rs. 50/- per day for the days he keeps any of the DTC articles in his possession after the specified period of 24 hours. In case a Police report is lodged on the date of the loss of returnable DTC articles a token penalty of Rs. 5000/- will be imposed at the time of settlement in accordance with Office Order No. 3 issued vide Admi-7 (42)/2013/109 dated.3.2.13.

Sd/-

DEPOT MANAGER Shri Manohar Lal, S/o Sh. Sat Pal Driver B.No. 36775, T.No. 68780 1 Delhi Transport Corporation This is a digitally signed order.

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4. Aggrieved thereby, the respondent instituted a reference which reached the learned labour court. The learned labour court allowed the reference, set aside his termination and directed that he be reinstated.

5. Aggrieved thereby, the DTC approached this Court by means of WP (C) 6558/2017. The said writ petition was decided by a learned Single Judge of this Court by judgment dated 27 January 2020.

6. Aggrieved by the judgment of the learned Single Judge, the DTC has preferred the present appeal under Clause X of the Letters Patent Appeal as applicable to this Court.

7. The learned Labour Court had, in holding in favour of the respondent, placed reliance on the judgment of the Supreme Court in Avtar Singh v UOI<sup>2</sup>.

8. The termination of the respondent from service was on the ground that, at the time when he secured appointment in the DTC, he had not disclosed the fact that there was a criminal case pending against him under Section 448/341 of the IPC<sup>3</sup>.

9. The learned labour court relied on the judgment of the Supreme Court in Avtar Singh.

2 (2016) 8 SCC 471 3 Indian Penal Code, 1860 This is a digitally signed order.

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10. Having taken note of the test laid down in Avtar Singh, the learned Labour Court went on to observe thus:

"As discussed in para No.30(4) (a) in the above judgment, the Apex Court held that in a trivial case 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 any incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse. In the case in hand, the claimant had not given information to the employer that a case under Section 448/34 IPC was pending against him when he had joined it that case was still pending. He has still not been convicted. So, claimant's case is on better footing than the case discussed by the Apex Court in para No. 30(4)."

11. The learned Single Judge, in the impugned judgment, specifically observed that the learned labour court had misunderstood the decision in Avtar Singh, inasmuch as, on the date when the declaration was tendered by the respondent, the case against him was still pending. In this regard, the learned Single Judge has observed thus:

"6. The Court is of the view that the learned Labour Court misconstrued the directions of the Supreme Court because the case was still pending and it had not been decided, therefore, the nature of the punishment, etc., was yet to be determined.

7. What is important for a prospective employer is to take a decision after disclosure of relevant facts by the prospective candidate. There could well be an issue of the integrity of the candidate. The nondisclosure of the information could well lend to forming such a decision."

12. Having observed that the learned labour court was erroneous in its approach, the learned Single Judge, nonetheless, chose not to interfere with the decision of the learned labour court on the

following This is a digitally signed order.

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"8. However, what also emanates from the preceding discussions, is that the lis arose apropos an ancestral property of the respondent, which was sought to be disposed-off allegedly in an objectionable manner, and the response of the respondent is stated to be most natural i.e. to object the entry of a third party into his ancestral property, in which he claims to be in rightful ownership. More significantly, the lis was a dispute between family members, it could not possibly have any bearing upon his work with the DTC. At worst, it was a case of criminal trespass by a third party, whose rights are still in dispute. It is claimed that there is no case of criminal assault on anybody.

9. Furthermore, when an enquiry was made, the respondent had duly furnished the requisite documents to the said Corporation, which has not taken a view on the merits of the case but has simply said that since there was a non-disclosure, therefore, it terminated his service.

10. In the circumstances, the conduct of the respondent which was primarily originated from a civil dispute and allegedly did not entail criminal physical assault, the non-disclosure cannot be considered to be of so significant a nature as to render him to be dismissed from services. The petition raises no significant reason to interfere with the impugned order. It is without merit and is, accordingly, dismissed."

13. As already noted, the DTC is before us in appeal against the judgment of the learned Single Judge.

14. We have heard Ms. Manisha Tyagi, learned Counsel for the petitioner, and Ms. Kaadambari Singh, learned Senior Counsel for the respondent, at some length.

15. Ms. Tyagi submits that the law in Avtar Singh has been revisited by the Supreme Court in several other decisions thereafter, of which she cites Rajasthan Rajya Vidyut Prasaran Nigam v Anil This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:08 Kanwariya<sup>4</sup> and Satish Chandra Yadav v UOI<sup>5</sup>. She submits that the position in law that emerges from these decisions is that the suppression of the existence of criminal case is by itself moral turpitude and entails termination of service, and that nothing more is required. She points out that the fact that the respondent did not disclose the fact of pendency of criminal case against him when called upon to do after he was employed with DTC, is not in dispute.

16. As such, she submits that the DTC was well within its right to terminate the respondent and the decision could not have been upset either by the learned labour court or by the learned Single Judge.

17. As against this, Ms. Kaadambari Singh, learned Senior Counsel for the respondent, submits that the decision in Avtar Singh and Satish Chandra Yadav as well as several other decisions have been considered by another two Judge Bench of the Supreme Court in Ravindra Kumar v State of UP<sup>6</sup>. She has drawn our attention to paras 1, 21 to 30 of the said decision which may be reproduced thus:

"1. The vexed question is back again. Is it a hard and fast and a cut and dried rule that, in all circumstances, non-disclosure of a criminal case (in which the candidate is acquitted) in the verification form is fatal for the candidate's employment? We think not and it ought not to be so too. Fortunately, we have a judicial chorus supporting our view. Each case will turn on the special facts and circumstances. We have endeavoured to analyse the applicable precedents and have followed those line of cases, which have a striking similarity to the facts at hand.

\*\*\*\*\* 4 (2021) 10 SCC 136 5 (2023) 7 SCC 536 6 (2024) 5 SCC 264 This is a digitally signed order.

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21. The State had taken the position that Clause 9 of the recruitment notification and the queries in the affidavit were quite clear and that there being suppression, the cancellation was perfectly justified.

22. The law on this issue is settled by a three-Judge Bench of this Court in Avtar Singh (supra). Paras 34, 35, 36 & 38, which sets out the conclusions, are extracted herein below: -

"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.

35. Suppression of "material" information presupposes that what is suppressed that "matters" not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.

36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.

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

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.

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:08 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 recourses 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 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:08 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."

(Emphasis supplied)

23. As would be clear from Avtar Singh (supra), it has been clearly laid down that though a person who has suppressed the material information cannot claim unfettered right for appointment, he or she has a right not to be dealt with arbitrarily. The exercise of power has to be in a reasonable manner with objectivity and having due regard to the facts. In short, the ultimate action should be based upon objective criteria after due consideration of all relevant aspects.

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24. Avtar Singh (supra) also noticed the judgment in Commissioner of Police and Others v Sandeep Kumar<sup>7</sup>. In Sandeep Kumar (supra), this Court set out the story of the character "Jean Valjean" in Victor Hugo's novel Les Miserables, where the character was branded as a thief for stealing a loaf of bread for his hungry family. It also discussed the classic judgment of Lord Denning in Morris v. Crown Office<sup>8</sup> and concluded as follows: -

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

11. As already observed above, youth often commits indiscretions, which are often condoned.

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

25. Thereafter, in Avtar Singh (supra) dealing with Sandeep Kumar (supra), this Court observed as under:

"24...This Court has observed that suppression related to a case when the age of Sandeep Kumar was about 20 years. He was young and at such age people often commit indiscretions and such indiscretions may often be condoned. The modern approach should be to reform a person instead of branding him a criminal all his life. In Morris v. Crown Office, the observations made were that young people are no ordinary criminals. There is no violence, dishonesty or vice in them. They were trying to preserve the Welsh language. Though they have done wrong but we must show mercy on them and they were permitted to go back to their studies, to their parents and continue the good course."

26. In Ram Kumar vs. State of U.P. and Others<sup>9</sup>, another case noticed and discussed in Avtar Singh (supra) arising out of near identical facts and construing a similar clause in the verification form, this Court, while granting relief, held as follows: -

7 (2011) 4 SCC 644 8 (1970) 2 QB 114 9 (2011) 14 SCC 709 This is a digitally signed order.



The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:08 "9. We have carefully read the Government Order dated 28-4-1958 on the subject "Verification of the character and antecedents of government servants before their first appointment" and it is stated in the government order that the Governor has been pleased to lay down the following instructions in supersession of all the previous orders:

"The rule regarding character of candidate for appointment under the State Government shall continue to be as follows:

The character of a candidate for direct appointment must be such as to render him suitable in all respects for employment in the service or post to which he is to be appointed. It would be the duty of the appointing authority to satisfy itself on this point.

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12. On a reading of the order dated 18-7-2002 of the Additional Chief Judicial Magistrate it would show that the sole witness examined before the court, PW 1, Mr Akhilesh Kumar, had deposed before the court that on 2- 12-2000 at 4.00 p.m. children were quarrelling and at that time the appellant, Shailendra and Ajay Kumar amongst other neighbours had reached there and someone from the crowd hurled abuses and in the scuffle Akhilesh Kumar got injured when he fell and his head hit a brick platform and that he was not beaten by the accused persons by any sharp weapon. In the absence of any other witness against the appellant, the Additional Chief Judicial Magistrate acquitted the appellant of the charges under Sections 323/34/504 IPC. On these facts, it was not at all possible for the appointing authority to take a view that the appellant was not suitable for appointment to the post of a police constable.

13. The order dated 18-7-2002 of the Additional Chief Judicial Magistrate had been sent along with the report dated 15-1-2007 of Jaswant Nagar Police Station to the Senior Superintendent of Police, Ghaziabad, but it appears from the order dated 8-8-2007 of the Senior Superintendent of Police, Ghaziabad, that he has not gone into the question as to whether the appellant was suitable for appointment to service or to the post of constable in which he was appointed and he has only held that the selection of the appellant was illegal and irregular because he did not This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:08 furnish in his affidavit in the pro forma of verification roll that a criminal case has been registered against him.

14. As has been stated in the instructions in the Government Order dated 28-4-1958, it was the duty of the Senior Superintendent of Police, Ghaziabad, as the appointing authority, to satisfy himself on the point as to whether the appellant was suitable for appointment to the post of a constable, with reference to the nature of suppression and nature of the criminal case. Instead of considering whether the appellant was suitable for appointment to the post of male constable, the appointing authority has mechanically held that his selection was irregular and illegal because the appellant had furnished an affidavit stating the facts incorrectly at the time of recruitment.

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17. For the aforesaid reasons, we allow the appeal, set aside the order of the learned Single Judge and the impugned order of the Division Bench and allow the writ petition of the appellant and quash the order dated 8-8-2007 of the Senior Superintendent of Police, Ghaziabad. The appellant will be taken back in service within a period of two months from today but he will not be entitled to any back wages for the period he has remained out of service. There shall be no order as to costs."

Ram Kumar (supra) was also a case of cancellation of selection to the post of Constable.

27. More recently in Pawan Kumar vs. Union of India<sup>10</sup>, involving appointment to the post of Constable in Railway Protection Force and setting aside the order of discharge due to alleged suppression in the verification form, this Court, after noticing Avtar Singh (supra) held as under: -

"11. This cannot be disputed that the candidate who intends to participate in the selection process is always required to furnish correct information relating to his character and antecedents in the verification/attestation form before and after induction into service. It is also equally true that the person who has suppressed the material information or has made false declaration indeed has no unfettered right of seeking appointment or continuity in service, but at least has a right not to be dealt with 10 AIR 2022 SC 2829 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:08 arbitrarily and power has to be judiciously exercised by the competent authority in a reasonable manner with objectivity having due regard to the facts of the case on hand. It goes without saying that the yardstick/standard which has to be applied with regard to adjudging suitability of the incumbent always depends upon the nature of post, nature of duties, effect of suppression over suitability to be considered by the authority on due diligence of various aspects but no hard and fast rule of thumb can be laid down in this regard.

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13. 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.

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20. Consequently, the appeal succeeds and is allowed. The judgment of the Division Bench of the High Court dated 17-11-2015 and the order of discharge dated 24-4-2015 and dated 23-12-2021 are hereby quashed and set aside. The Respondents are directed to reinstate the appellant in service on the post of Constable on which he was selected pursuant to his participation in reference to Employment Notice No. 1/2011 dated 27-2-2011. We make it clear that the appellant will not be entitled for the arrears of salary for the period during which he has not served the force and at the same time he will be entitled for all notional benefits, including pay, seniority and other consequential benefits, etc. Necessary orders shall be passed within a period of one month from today. No costs."

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28. In Mohammed Imran vs. State of Maharashtra and Others , no doubt, a case where a candidate made the disclosure of criminal case, this Court speaking through Navin Sinha, J. made the following telling observation which resonates with the hard realities of everyday existence:

"5. Employment opportunities are a scarce commodity in our country. Every advertisement invites a large number of aspirants for limited number of vacancies. But that may not suffice to invoke sympathy for grant of relief where the credentials of the candidate may raise serious questions regarding suitability, irrespective of eligibility. Undoubtedly, judicial service is very different from other services and the yardstick of suitability that may apply to other services, may not be the same for a judicial service. But there cannot be any mechanical or rhetorical incantation of moral turpitude, to deny appointment in judicial service simpliciter. Much will depend on the facts of a case. Every individual deserves an opportunity to improve, learn from the past and move ahead in life by self- improvement. To make past conduct, irrespective of all considerations, an albatross around the neck of the candidate, may not always constitute justice. Much will, however depend on the fact situation of a case."

29. We have also kept in mind the recent judgment of this Court in Satish Chandra Yadav vs. Union of India and Others and the broad principles set out by this Court in para 93, especially, paras 93.1, 93.3 & 93.7. Even the broad principles set out therein recognize that each case should be scrutinized thoroughly by the public employer concerned and the Court is obliged to examine whether the procedure of enquiry adopted by the authority concerned was fair and reasonable. Avtar Singh (supra) in para 38.2 has held that while passing the order of cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information. Further, in para 38.4.3 of Avtar Singh (supra) the principle that, in case of suppression or false information of involvement of criminal case, where acquittal has already been recorded, the employer can still consider all relevant facts available as to antecedents and may take appropriate decision as to the continuance of the employee.

30. We have read and understood the broad principles laid down in Satish Chandra Yadav (supra) with the following crucial para in Avtar Singh (supra):

11 (2019) 17 SCC 696 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:08 "35. Suppression of "material" information presupposes that what is suppressed that "matters" not every technical or trivial matter. The employer has to act on due consideration of rules/instructions, if any, in exercise of powers in order to cancel candidature or for terminating the services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases."

31. We have also examined the judgment in State of T.N. v. J. Raghunees<sup>12</sup> and we find that the case of the appellant is more aligned with the facts in the judgment of this Court in Pawan Kumar (supra), Sandeep Kumar (supra) and Ram Kumar (supra). Hence, we find that the judgment in State of T.N. v. J. Raghunees is clearly distinguishable.

32. The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgment of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio- economic strata of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered.

33. Having discussed the legal position above, it is necessary to set out certain special features that obtain in the case at hand. 33.1. The appellant hails from the small Village Bagapar, PO Kataura, Police Station Gauri Bazar, District Deoria, U.P. 33.2. On the date of the application, there was no criminal case pending and there was no suppression in the application form. 33.3. The criminal case was registered when he was 21 years of age for the offences very similar to the one referred to in

Sandeep Kumar (supra) and even in the criminal case he was acquitted. 33.4. No doubt, the multiple columns in the verification affidavit, questions were asked from him in different permutations and combinations. He must have been in a deep dilemma as there was an imminent prospect of losing his employment.

12 (2023) 16 SCC 647 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:09 33.5. Most importantly, we find from the verification documents fairly and candidly made available by the learned Additional Advocate General, that the verification report after noticing the criminal case and the subsequent acquittal stated that his character was good, that no complaints were found against him and that his general reputation was good.

33.6. Not stopping there, the person who visited the spot even wished him a bright future in the report.

33.7. The SHO, Gauri Bazar Police Station, who forwarded the report to the Superintendent of Police after reiterating the contents of the report observed that he was acquitted and no appeal was filed. Further, there was no other case pending and nor was any case registered against the candidate.

33.8. The SHO certified the character of the candidate as excellent and that he was eligible to do government service under the State Government. He annexed the report of the police station as well as the report of the Gram Pradhan and the court documents. 33.9. The Superintendent of Police, in his letter to the Commandant, endorsed the report and reiterated that the character of the candidate was excellent.

33.10. While examining whether the procedure adopted for enquiry by the authority was fair and reasonable, we find that the order of cancellation of 12-4-2005 does not even follow the mandate prescribed in Clause 4 of the Form of Verification of Character set out in the earlier part of this judgment (see para 13, above). Like it was found in Ram Kumar (supra) instead of considering whether the appellant was suitable for appointment, the appointing authority has mechanically held his selection was irregular and illegal because the appellant had furnished an affidavit with incorrect facts. Hence, even applying the broad principles set out in para 93.7 of Satish Chandra Yadav (supra), we find that the order of cancellation dated 12-4-2005 is neither fair nor reasonable. Clause 9 of the recruitment notification has to be read in the context of the law laid down in the cases set out hereinabove.

34. On the facts of the case and in the backdrop of the special circumstances set out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can be deemed fatal for the appellant. Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:38:09 to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario."

18. Ravindra Kumar, it appears, is the latest decision on the point. It considers Avtar Singh, Satish Chandra Yadav and several other decisions. The Supreme Court has, in that case, held that, even if there was a requirement of the employee truthfully disclosing existence of a criminal case against him, the failure on the part of the employee in doing so cannot, in every case, justify discontinuance of his service by a stroke of the pen. The authority concerned is required to take a holistic view of the matter and take into account all factors which apply. Among the factors which so apply, according to the Supreme Court, are the nature of the office, timing and nature of the criminal case, the overall consideration of the judgement of acquittal, the nature of the query in the application/verification form, the contents of the character verification reports, the socio economic strata of the individual applying, the other antecedents of the candidate, the nature of consideration and the contents of the cancellation/termination order.

19. Keeping in mind the fact that the Supreme Court has held that several other factors are also required to be kept in mind while deciding the nature of the relief to be granted in such a case, and keeping in mind the fact that the respondent has only six months to superannuate, we deem it appropriate to take a call on the matter ourselves instead of remitting it to the learned Single Judge or to the departmental authorities.

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20. Accordingly, to enable both Counsel to address us on the merits of the present matter, vis-à-vis the judgment of the Supreme Court in Ravindra Kumar, re-notify on 19 February 2025.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

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