

(2023) 03 DEL CK 0197

In the Delhi High Court

Case No : Civil Writ Petition No. 10022 Of 2022, Civil Miscellaneous Application No. 29201, 29203 Of 2022

Manoj Paul

APPELLANT

Vs

Delhi Metro Rail Corporation & Anr

RESPONDENT

Date of Decision : 28-03-2023

Acts Referred:

(2016) 8 SCC 471 and ?State of West Bengal & Ors. vs. S. Nazrul Islam"

Citation : (2023) 03 DEL CK 0197

Hon'ble Judges : V. Kameswar Rao, J;Anoop Kumar Mendiratta, J

Bench : Division Bench

Advocate : Vrinda Bhandari, Natasha Maheshwari, Sameer Vashisht, Vanshay Kaul, V.S.R. Krishna, V. Shashank Kumar

Final Decision : (2022) SCC OnLine SC 532 ; Avtar Singh vs. Union of India & Ors."

Judgement

Anoop Kumar Mendiratta, J

1. By way of present writ petition, petitioner assails order dated April 21, 2022 passed by Central Administrative Tribunal (in short 'Tribunal') in O.A. No.2517/2021. Petitioner vide aforesaid O.A. challenged the order dated October 20, 2021 passed by respondent No.1 (DMRC) in compliance of order dated September 10, 2021 passed by the Tribunal in O.A. No.1977/2021, thereby withdrawing and cancelling the offer of appointment of the petitioner to the post of Junior Engineer/Environment on account of suppression of furnishing of material information regarding criminal involvements.

2. Facts culminating in filing of the present writ petition may be briefly noticed:

i. Based upon performance in the Computer Based Test dated February 17, 2020, petitioner was empanelled provisionally to participate in the next stage of document verification and pre-appointment medical examination for the post of Junior Engineer/Environment and was called for joining on July 20, 2021 on

being found medically fit.

ii. Thereafter, at the time of checking of documents, it was noticed that petitioner in the attestation form had responded to questions in Column Nos.12(i)(a)(b)(c)(d)(e)(f)(i) and 12(i) as under:

12(i)

(a)

Have you ever been arrested?

Yes?/No

(b)

Have you ever been prosecuted?

Yes?/No

(c)

Have you ever been kept under detention?

Yes?/No

(d)

Have you ever been bound down?

Yes/No?

(e)

Have you ever been fined by a Court of Law?

Yes/No?

(f)

Have you ever been convicted by a Court of Law

for any offence?

Yes/No?

(i)

Is any case pending against you in any court of Law or any FIR against you at the time of filling up this

Attestation Form?

Yes?/No

12

(i)

If, the answer to any of the above mentioned questions is Yes give full particulars of the case/arrested/detention/fine/conviction/sentence/punishment etc. and/or the nature of the case pending of the court/ university/Educational

Authority etc. at the time of filling up this form.

(No space to fill details.)

The Attestation Form also contained a warning that Furnishing of false information or suppression of any factual information in the Attestation Form would be a disqualification and is likely to render the candidate unfit for employment under the Government. Further, if it comes to the notice at any time during service of a person that false information has been furnished or there has been suppression of any factual information in the attestation form, the services would be liable to be terminated.

iii. Thereafter, on a query from the Department, petitioner informed that four FIRs were filed against him, in which he was acquitted in January, 2019 and five FIRs were pending against him in the Court of Chief Judicial Magistrate, Port Blair and also submitted copies of said FIRs.

iv. It may also be noticed that the petitioner while submitting the online application form on December 14, 2019 for the post of Junior Engineer/ Environment incorrectly responded 'no', with reference to the question, 'have you ever been arrested/prosecuted/kept under detention or convicted, fined by a court of law or barred from any examination or rusticated by any University'.

v. Since, the order of appointment of the petitioner was kept in abeyance, he initially preferred a Writ Petition before the High Court of Delhi, which was dismissed as withdrawn granting liberty to the petitioner to approach the Tribunal. Thereupon an O.A. No.1977/2021 was preferred by the petitioner before the Tribunal for issuance of appointment letter by respondent No. 1, which was disposed of vide order dated September 10, 2021 with the following directions:-

"6. In the aforesaid facts and circumstances, with the consent of the parties, the present OA is disposed of with liberty to the applicant to supply all the relevant information, copies of the FIRs against him, the decisions of the competent court on those FIRs, if any, as expeditiously as possible and preferably within ten days from today. On receipt of such information/documents from the applicant, the respondent no. 1 is directed to take a final decision with regard to the issuance of offer of appointment to the applicant for the post of Junior Engineer/ Environment (RNE04) as expeditiously as possible and preferably within a period of four weeks of receipt of a copy of the relevant documents and information referred to hereinabove and communicate the same to the applicant within a week thereof. The OA is disposed of in the aforesaid terms.

There shall be no order as to costs. We may clarify that while disposing of the

present OA, we have not gone into the merit.”

vi. Pursuant to directions passed by the Tribunal in O.A. No.1977/2021 vide order dated September 10, 2021, the petitioner submitted the following documents related to pending as well as disposed of criminal cases, on September 16, 2021 as under:-

Sl.

FIR No. & Date

Documents submitted by Shri Manoj Paul

Status of the case, as informed by Shri Manoj Paul

1

2

3

4

1.

156/2012, dated: 26/04/2012

Order, dated:07/06/2018 of Hon'ble Additional District & Sessions Judge, Port Blair, in Criminal Appeal

No.02/2018.

Acquitted

2.

95/2016, dated: 14/06/2016

Order, dated:30/11/2018 of Hon'ble Court of Judicial Magistrate First Class, Port Blair

Acquitted

3.

154/2017, dated: 24/05/2017

Order, dated:24/09/2018 of Hon'ble Court of Judicial Magistrate First Class, Port Blair

Acquitted

4.

552/2017, dated: 26/10/2017

Order, dated:04/02/2019 of Hon'ble Court of Judicial Magistrate First Class, Port Blair

Acquitted

5.

154/2020, dated: 16/04/2020

Charge-Sheet No.:19/21 dated: 01/02/2021, filed in the Hon"ble Court of Chief Judicial Magistrate, Port

Blair

Pending Trial (charges not yet framed)

6.

230/2020, dated: 14/04/2020

Charge-Sheet No.:63/21 dated: 30/06/2021, filed in the Hon"ble Court of Chief Judicial Magistrate, Port

Blair

Pending Trial (charges not yet framed)

7.

234/2020, dated: 28/04/2020

Charge-Sheet No.:21/21 dated: 17/03/2021, filed in the Hon"ble Court of Chief Judicial Magistrate, Port

Blair

Pending Trial (charges not yet framed)

8.

235/2020, dated: 29/04/2020

Charge-Sheet No.:32/21 dated: 26/04/2021, filed in the Hon"ble Court of Chief Judicial Magistrate, Port

Blair

Pending Trial (charges not yet framed)

9.

236/2020, dated: 30/04/2020

Charge-Sheet No.:18/21 dated: 01/03/2021, filed in the Hon"ble Court of Chief Judicial Magistrate, Port

Blair

Pending Trial (charges not yet framed)

vii. Respondent No. 1 thereupon passed an order dated October 20, 2021 in compliance of order dated September 10, 2021 passed by the Tribunal in O.A. No. 1977/2021, whereby the request of the petitioner for issuing offer of appointment for the post of Junior Engineer/Environment and his empanelment in response to Advertisement No. DMRC/HR/Rectt./1/2019 dated December 14, 2019 was declined on the grounds of suppression of material information regarding his involvement in criminal cases at the time of filling up of online application form and for willfully choosing not to mention the relevant details at the time of filling up of Attestation Form by simply mentioning '(no space to fill details)'.

It was also noticed that a false declaration was made by the petitioner in respect of suppression regarding his conviction in one of the cases wherein he was subsequently acquitted by the Appellate Court.

Also, non-bailable warrants were issued against the petitioner in FIR No.235/2020 and on being arrested by Police on December 08, 2020, he was taken to Port Blair and sent to Judicial Custody for 14 days from December 11, 2020.

It was further observed that the chargesheet filed in the Court of Chief Judicial Magistrate, Port Blair clearly mentioned the date of arrest of the petitioner Manoj Paul and status of bail as "Not Bailed", but the petitioner willfully chose neither to disclose that he was granted bail nor provided any copy of the bail orders.

3. Aggrieved by order dated October 20, 2021 passed by respondent No.1, whereby the offer of appointment for the post of Junior Engineer/Environment and empanelment for the same was withdrawn and cancelled, the petitioner preferred O.A. No. 2517/2021 before the Tribunal.

4. During the course of hearing before the Tribunal, it was canvassed by the petitioner-in-person, who is B-Tech from VRSEC Vijaywada and M-Tech from IIT Bombay, that it was a clear and simple inadvertent human error and he had no ill-intention for hiding/withholding the particulars either at the time of filling the online application form or thereafter. Petitioner also contended that he was denied employment solely on the ground of his involvements in FIRs without taking into consideration that he had been acquitted in four cases out of nine cases registered against him. Further, the respondent had falsely stated that the documents were not provided by the petitioner whereas he had been running from pillar to post to prove his innocence. The order dated October 20, 2021 passed by the respondent was contended to be illegal and unjustified.

Reliance was also placed by the petitioner upon judgments passed in 'Commissioner of Police and others vs. Ajay Kumar Dharma', MANU/DE/3563/2012, 'Avtar Singh vs. Union of India', (2016) 8 SCC 471 and

'Mohammed Imran vs. State of Maharashtra and others', AIR 2018 SC 4895.

5. Per contra, it was contended by the respondents that petitioner was bound to truthfully declare the pendency of cases for the purpose of employment in the Public Utility Service Organization, wherein exemplary character and antecedents are imperative. Further, the Appointing Authority is within its rights to debar appointment of a person who is unfit, or, has questionable background and is bound to consider various other aspects of the criminal case(s) pending against the candidate. The suppression of criminal involvements and substantive documents is stated to have been made both at the time of filling up online application form as well as the Attestation Form.

Reliance was further placed upon judgments of Hon'ble Supreme Court in 'Kendriya Vidyalaya Sangathan & Ors. vs. Ram Ratan Yadav', (2003) 3 SCC 437 and 'Government of NCT of Delhi and Others vs. Bheem Singh Meena', 2022 LiveLaw (SC) 339.

6. Having heard the petitioner as well as the respondents, the Tribunal dismissed the O.A. and the reasons accorded in para 14 to 17 may be reproduced:

"14. We have minutely gone through the impugned order, which cannot be said to be a non-speaking order, in which while recording the facts, as noted above, the Corporation, i.e., respondent no.1 has also relied upon the judgment of the Hon'ble Supreme Court in the case of Avtar Singh (supra) as well as MHA's OM dated 2.7.1982, the relevant portion of which has already been quoted in para 10 above. Besides relying upon certain other judgments by the parties, applicant as well as counsel for the respondents have mainly relied upon the judgment of the Hon'ble Supreme Court in the case of Avtar Singh (supra) in support of their respective claim. Recently, the Hon'ble Supreme Court in the case of Union of India and others vs. Methu Meda, JT 2021 (10) SC 11, has considered the similar issue in which the Hon'ble Supreme Court observed as follows:-

"17. The law with regard to the effect and consequence of the acquittal, concealment of criminal case on appointments etc. has been settled in the case of Avtar Singh (supra), wherein a three Judge Bench of this Court decided, as thus:

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

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 4 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."

18. In view of the above, in the facts of the present case, as per paras 38.3, 38.4.3 and 38.5, it is clear that the employer is having right to consider the suitability of the candidate as per government orders/instructions/rules at the time of taking the decision for induction of the candidate in employment. Acquittal on technical ground in respect of the offences of heinous/serious nature, which is not a clean acquittal, the employer may have a right to consider all relevant facts available as to the antecedents, and may take appropriate decision as to the continuance of the employee. Even in case, truthful declaration regarding concluded trial has been made by the employee, still the employer has the right to consider antecedents and cannot be compelled to appoint the candidate.

15. Further on identical facts, the Hon'ble Supreme Court in the case of Bheem Singh Meena (supra) has held as under:-

"10. We find that the respondent, seeking appointment to the post of trained graduate teacher, is not an illiterate or uneducated person who can claim the ignorance of the meaning of the word 'prosecution'. Avtar Singh (supra) was a case of the appointment to the post of a constable. This Court has held that giving of a wrong information dis- entitles the candidate for appointment."

16. Since the issue involved in the present case has already been settled by the Hon'ble Supreme Court in the case of Avtar Singh (supra) and subsequently followed by the Hon'ble Supreme Court (supra), we do not find it relevant to go into the applicability of other judgments relied upon by the parties as noted above.

17. Having regard to undisputed facts of the instant case, as noted above and keeping in view the above observations of the Hon'ble Supreme Court in the cases of Methu Medha (supra) and Bheem Singh Meena (supra), in which the Hon'ble Supreme Court by relying upon the judgment in the case of Avtar Singh (supra), rejected the claim of the candidate in the said cases for appointment to a post(s) in question, we do not find any merit in the instant case and the same is accordingly dismissed.

However, there shall be no order as to costs."

7. The factual position as canvassed by petitioner before the Tribunal has been reiterated and it is submitted by the petitioner that he has regularly campaigned to uproot corruption in the Andaman and Nicobar Islands (A & N) Administration, often raking up issues relating to custodial violence, leak of question papers,

abuse of powers by the police force, etc., which made him a target of police intimidation and harassment. As such, he was harassed by the police and local bar at Andaman and Nicobar Islands resulting in registration of various complaints. It is also pointed out that the four FIRs between 2012 and 2017 were filed by one Ms. Kabita Paul and Ms. Ranjita Halder, who were working in connivance with local police and he stands acquitted in all the four FIRs.

It was further contended that petitioner made a bona fide error in misunderstanding the question at the time of filling up online application form based on his acquittal orders. Further, as soon as he was provisionally empanelled, he was wrongfully accused in five more FIRs, which were filed against him in a span of 15 days in two police stations in Andaman & Nicobar Islands by lawyers / police.

It was urged that the petitioner voluntarily disclosed his pending cases as well as his past acquittals when he was called to fill up the physical attestation form for document verification on July 19, 2021. The order dated October 20, 2021 passed by respondent No. 2 is stated to have been issued without hearing the petitioner and passed without application of mind.

Reliance was further placed upon 'Avtar Singh vs. UOI', (2016) 8 SCC 471, 'Collector of Customs, Calcutta vs. Tin Plate Co. of India Ltd', (1997) 10 SCC 538, 'Sandeep Kumar vs. Commissioner of Police', 2006 (90) DRJ 707 DB, 'Prashant Deep vs. High Court of Delhi', (2019) SCC Online Del 8200 and 'Pawan Kumar vs. Union of India', 2022 SCC OnLine SC 532. Written submissions were also filed on record by the petitioner.

8. On the other hand, learned counsel for the respondents reiterated the factual position stated before the Tribunal and submitted that petitioner is accused in different FIRs for offences under Sections 34, 153(A) IPC (Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony), Section 384 IPC (punishment for extortion), Section 295(A) IPC (Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs), Section 504 IPC (intentional insult with intent to provoke breach of the peace), Section 506 IPC (punishment for criminal intimidation), Section 505(2) IPC (statements creating or promoting enmity, hatred or ill-will between classes), Section 509 IPC (word, gesture or act intended to insult the modesty of a woman), Section 511 IPC (Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment), which are grave in nature and currently still pending against the petitioner.

It is also urged on behalf of respondents that petitioner incorrectly responded by answering 'no', in response to question regarding his arrest/prosecution/detention or conviction at the time of submitting online application form. It was pointed out that the drop-down box provided for filling up relevant particulars

would have appeared, in case, the petitioner had correctly responded 'Yes', in response to the question regarding his involvements. Even in the Attestation Form, the petitioner incorrectly replied 'No' in response to the question regarding his conviction by a court of law for any offence. Further, with reference to furnishing of full particulars of the cases of arrest/detention/fine/conviction/sentence/punishment etc., the petitioner had responded with '(No space to fill details)'. The factual details were disclosed only after the insistence of the respondents. The plea of the petitioner that he could not understand the question is stated to be an afterthought since he is well-qualified and an M-Tech from IIT Bombay.

It was submitted that respondents being public authorities could not be compelled to consider and select the candidates who have questionable criminal character, considering the number of criminal involvements which are of grave nature. Reliance was also placed upon O.M. No. 18011/9(S)/78-ESTT.(B) dated July 02, 1982 issued by Ministry of Home Affairs Department of Personnel and Administrative Reforms, which provides that it will be the responsibility of the Appointing Authority to satisfy itself about the identity and suitability of the candidate according to the prescribed criteria before making any appointment.

Reliance was also placed upon 'Avtar Singh vs. Union of India & Ors.', (2016) 8 SCC 471 and 'State of West Bengal & Ors. vs. S. Nazrul Islam', 2011 AIR SCW 6558. Written submissions were further filed on record.

9. We have given considered thought to the contentions raised. The conclusion on the question of suppression of information or submitting false information in the verification form have been summarised in Avtar Singh (supra) and also noticed by the Tribunal.

10. In the aforesaid context, the broad principles of law as enunciated in 'Satish Chandra Yadav vs. Union of India and Ors.', (2022) SCC OnLine SC 532 may be beneficially reproduced as referred in paragraph No. 69 of the judgement:

"69. In such circumstances, we undertook some exercise to shortlist the broad principles of law which should be made applicable to the litigations of the present nature. The principles are as follows:

a) Each case should be scrutinized thoroughly by the public employer concerned, through its designated officials—more so, in the case of recruitment for the police force, who are under a duty to maintain order, and tackle lawlessness, since their ability to inspire public confidence is a bulwark to society's security.

b) Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for

appointment to the post.

c) The suppression of material information and making a false statement in the verification Form relating to arrest, prosecution, conviction etc., has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.

d) The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided.

e) The Court should inquire whether the Authority concerned whose action is being challenged acted mala fide.

f) Is there any element of bias in the decision of the Authority?

g) Whether the procedure of inquiry adopted by the Authority concerned was fair and reasonable?

11. It is pertinent to note that the Hon'ble Supreme Court in Satish Chandra Yadav (supra) reiterated the principle that the acquittal in a criminal case would not automatically entitle a candidate for appointment to the post and it would still be open to the employer to consider the antecedents and examine if the candidate concerned is suitable and fit for appointment to the post. It was also held that the suppression of material information and making a false declaration in the verification relating to arrest, prosecution, conviction etc. has a clear bearing on the character, conduct and antecedents of the employee and in case the employee had suppressed or given false information, he can be terminated. It was further laid down that the Court should inquire whether the authority concerned whose action is being challenged acted malafide or is there any element of bias in the decision of the authority and whether the procedure of inquiry adopted by the authority concerned was fair and reasonable.

12. Reverting back to the facts of the present case, the documents submitted by petitioner as summarized in order dated October 20, 2021 passed by respondent No. 1 may be reproduced to have an overall view as to the number of cases/FIRs in which the petitioner stands acquitted/involved:

SI

FIR

No. & Date

Charge- sheet No.

Filed u/s of IPC

Allegations, in brief, leveled against Shri Paul

Documents submitted by Shri Paul

Remarks

1

2

3

4

5

6

7

A. CASES WHERE SHRI MANOJ PAUL HAS INFORMED THAT HE HAS BEEN ACQUITTED

1.

156/

2012,

dated: 26/04

/2012

307/

2013,

dated: 13/10

/2013

504, 506, 509 of IPC r/w Section s 66A, 66C, 66E and 43 of IA Act, 2000.

Complainant subjected to harassment, mental torture and Shri Paul used using filthy

language and threatened her and family members with dire consequences.

Order, dated: 07/06/2018 of Hon'ble Addl. District & Sessions Judge, Port Blair, in Criminal Appeal No. 02/2018,

stating that Shri Manoj Paul was found not guilty in respect of the offence u/s 504 and acquitted.

Convicted by Hon'ble Court u/s 504 IPC (intentional insult with intent to provoke breach of the peace) with 01 year Rigorous Imprisonment with fine of Rs.1,000/- Id to SI for 01 month, by Ld. JMFC-II, Port Blair, vide Order, dated:

19/01/2018.

Shri Manoj Paul neither provided the copy of Order, dated: 19/01/2018 nor his Bail Orders.

2

95/ 2016, dated: 14/06 /2016

193/ 2017, dated: 26/08 /2017

354(A) (I)(IV), 354D, 507, 509 r/w Section 67(A) of IA (2008) Act.

Allegation 1 Sending obscene SMS/ unwanted calls to complainant, threatening her, her husband and daughters. Allegation 2 Sexually abusing daughter of complainant. Allegation 3 Posting defamatory matters on social media against previous IO of the case and another police officer. Allegation 4 Threat to Ld. C.J.M., Port Blair, pressurizing him to stop the investigation and take action against the IOs of this case.

Order, dated: 30/11/2018 of Hon'ble Court of Judicial Magistrate First Class, Port Blair.

The Hon'ble Court discharged Shri Manoj Paul of his liabilities of bail bond. The Hon'ble Court also remarked that, " ... the prosecution side has failed to prove the charged offences against the accused person beyond the shadow of all reasonable doubt due to want of sufficient and cogent evidence".

3.

154/ 2017, dated: 24/05 /2017

305/ 2017, dated: 07/11 /2017

195(A), 504, 506

Pressurized the Complainant to withdraw the (separate) criminal case filed earlier by her and threatened to kill complainant and her daughters.

Order, dated: 24/09/2018 of Hon'ble Court of Judicial Magistrate First Class, Port Blair.

Hon'ble Court discharged Shri Manoj Paul of his liabilities of bail bond.

4.

552/ 2017, dated: 26/10 /2017

556/ 2017, dated: 08/11 /2017

392, 393

Complainant was attacked, his phone snatched and assaulted.

Order, dated: 04/02/2019 of Hon'ble Court of Judicial Magistrate First Class, Port

Blair.

Hon'ble Court discharged Shri Manoj Paul of his liabilities of bail bond. The Hon'ble Court also remarked that, "To Be specific the prosecution has failed to prove their case beyond the shadow of all reasonable doubt and in view such benefit of doubt must go in favour of the accused resulting his acquittal from both the charge punishable U/S 392/323 of I.P.C. ".

B. WHERE SHRI MANOJ PAUL HAS INFORMED THAT CASES ARE PENDING BEFORE HON'BLE COURT FOR TRIAL

1.

154/ 2020, dated: 16/04 /2020

19/21 , dated: 01/02 /2021

153(A)/ 295(A)/ 505(2)/ 509 / 506

Uploaded video on Youtube titled "Nexus between Police and Advocates in Andaman", on 07/04/2020 with the allegations that he has a habit of using social media and spread inflammatory and provoking contents and words spoken in the video to public mischief, creating or promoting enmity, hatred or ill-will between classes. Moreover. he is a habitual offender

1. Charge-Sheet filed in the Hon"ble Court of CJM, Port Blair.

n the said charge-sheet, date of arrest has been mentioned as 08/12/2020 and indicated as 'Not Bailed'.

It is a fact that Shri Manoj Paul is out, as he reported for document verification, medical examination and joining. But Shri Manoj Paul did not submit copy of his Bail Order.

2.

230/ 2020, dated: 14/04 /2020

63/21 , dated: 30/06 /2021

504, 506, 509

Threatened to kill Advocate and extortion of money.

1. Charge-Sheet filed in the Hon"ble Court of CJM, Port Blair.

In the said charge-sheet, date of arrest has been mentioned as 30/12/2020 and Shri Paul was bailed by Court.

It is a fact that Shri Manoj Paul is out, as he reported for document verification, medical examination and joining. But Shri Manoj Paul did not submit copy of his Bail Order.

3.

234/ 2020, dated: 28/04 /2020

21/ 2021, dated: 17/03 /2021

384, 511

Threatened to kill son of the complainant and extortion of money.

1. Charge-Sheet filed in the Hon"ble Court of CJM, Port Blair.

In the said charge-sheet, it has been mentioned that Shri Manoj Paul was not arrested, bail granted by Hon"ble CJM Court. Port Blair.

Shri Manoj Paul did not submit copy of his Bail Order.

4.

235/ 2020, dated: 29/04 /2020

32/21 , dated: 26/04 /2021

384, 504, 506, 511, 34

Threatened to kill son of the complainant and extortion of money.

1. Charge-Sheet filed in the Hon"ble Court of CJM, Port Blair.

In the said charge-sheet, date of arrest has been mentioned as 08/12/2020 and date of release on bail is 03/02/2021; bailed by Hon"ble Court. In a different charge-sheet No.: 154/2020, it has been mentioned that a NonBailable Warrant was issued against Shri Manoj Paul in FIR No. 235/2020 and he was arrested from Delhi, taken to Port Blair and was sent to Judicial Custody for 14 days. From 11/12/2020.

It is a fact that Shri Manoj Paul is out, as he reported for document verification, medical examination and joining. But Shri Manoj Paul did not submit copy of his Bail Order.

5.

236/ 2020, dated: 30/04 /2020

18/21 , dated: 01/03 /2021

384, 34, 511

Threatened to kill family members of the complainant and extortion of money.

1. Charge-Sheet filed in the Hon"ble Court of CJM, Port Blair.

In the said charge-sheet, date of arrest has been mentioned as 11/12/2020 and date of release on bail was 24/12/2020; bailed by Hon"ble Court.

It is a fact that Shri Manoj Paul is out, as he reported for document verification, medical examination and joining. But Shri Manoj Paul did not submit copy of his

Bail Order.

13. It may be noticed that the claim of the petitioner is that he regularly campaigned to uproot corruption in the A & N Administration, raking up various social issues which has led to his undue harassment by the local police and bar. Also, complaints in respect of the same were filed with the Bar Council. The four FIRs against the petitioner in between 2012 and 2017 are stated to have been filed by one Ms. Kabita Paul and Ms. Ranjita Halder, who were working in connivance with local officials. It is claimed that he was wrongly accused in five more bogus FIRs filed in span of 15 days (April 16, 2020 to April 30, 2020) in two police stations in A & N by lawyers/police.

14. A bare perusal of the documents relied upon by the petitioner reveals that the petitioner on account of various litigations/FIRs pending against him appears to have approached different forums seeking his security and also filed a petition before the Hon'ble Supreme Court of India. It was directed by the Hon'ble Supreme Court that the petitioner is at liberty to take his remedy before the High Court and seek expeditious disposal of any case which is pending by moving an application before the concerned Court.

The issue for consideration is whether the petitioner suppressed his involvements in various criminal cases at the time of filling up of the online application form and also did not intentionally disclose the details of criminal involvements while filling the Attestation Form and merely reflected '(no space to fill details)' though the response to various other queries was reflected as referred in para 2(ii) above.

It may be noticed that in respect of the initial conviction under Section 504 IPC in Case No.740/2012 under Sections 504/506/509 of IPC read with Section 66 of IT Act, 2000, the petitioner was subsequently acquitted by the Court of Sessions. However, the petitioner failed to disclose the aforesaid fact at the time of filling up of the online application form.

There does not appear to be any plausible reason for non-disclosure of the fact of conviction and acquittal at the inception stage of filling up online application form by the petitioner along with his other involvements in three FIRs. His explanation that there was a bona fide error in misunderstanding based on his acquittal by the Court of Session subsequently does not appear to be convincing, considering his qualifications and the fact that he had been embroiled in raising legal and social issues with the various departments and Government functionaries. It also cannot be ignored that the petitioner even at the stage of filling up of the Attestation Form did not disclose the details of other five FIRs by merely stating '(no space to fill details)'. The same reflects that the petitioner never wanted to elucidate the details in respect of the said FIRs, lest his offer of appointment may be adversely impacted on account of revealing of such details. The information could have been simply given by appending an additional page but was intentionally not disclosed.

It may be difficult at this stage to conclude that the petitioner in the pending FIRs has been falsely implicated or otherwise at the instance of the complainants, as contended by the petitioner.

It is pertinent to note that while passing order dated October 10, 2021; respondents fairly considered the fact of involvement of petitioner in various criminal cases. The respondents also considered the aspect of arrest of the petitioner in FIR No.235/2020, pursuant to non-bailable warrants, since he was arrested by the police team on December 08, 2020, taken to Port Blair and sent to Judicial Custody for 14 days from December 11, 2020. This fact does not appear to have been disclosed in the particulars provided by the petitioner at the time of filling up of the Attestation Form, though, the factum of arrest was admitted.

15. In the facts and circumstances, it cannot be said that the order passed by the respondent is a non-speaking order or passed without application of mind as contended by the petitioner. We do not agree with the contention made by the petitioner that his answer at the time of filling up of the online application form was bona fide. The order dated October 20, 2021 appears to have been passed by the respondent Department after a 'fair and reasonable inquiry' as contemplated in Satish Chandra Yadav (supra) and considering the involvement of petitioner in various FIRs pending against him. The contention raised by the petitioner that the Attestation or Verification Form did not contain proper or adequate queries is also without any merit.

It may be observed that all the cases cannot be put in a strait jacket and a degree of flexibility and discretion vests with the Authorities, which must be exercised with care and caution taking all the facts and circumstances into consideration, including the nature and type of offences as held by Hon'ble Supreme Court in Avtar Singh (supra).

The employer has a right to consider the antecedents of the candidate and cannot be compelled to employ a candidate, considering the number and nature of involvements in criminal cases and on account of suppression or non-disclosure of involvements in the Application/Attestation Form. The discretion in the present case appears to have been exercised by respondent No.1 with objectivity and, as such, we find no grounds to disagree with the findings of Central Administrative Tribunal.

For the foregoing reasons, petition is dismissed. In the facts and circumstances, no order as to costs. Pending applications, if any, also stand disposed of.