

(2025) 01 DEL CK 1754

In the Delhi High Court

Case No : Writ Petition (C) No. 5015 Of 2018

Santosh Kumar Yadav @ Ranjan

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 27-01-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Indian Penal Code, 1860 — Section 34, 147, 323, 325, 504, 506
Sashastra Seema Bal Act, 2007 — Section 25
Juvenile Justice (Care And Protection Of Children) Act, 2000 — Section 2(k), 2(l), 19, 19(1), 19(2), 21

Citation : (2025) 01 DEL CK 1754

Hon'ble Judges : Navin Chawla, J; Shalinder Kaur, J

Bench : Division Bench

Advocate : G.D. Chotmurada, Pratima N. Lakra, Chandan Prajapati

Final Decision : Allowed

Judgement

Shalinder Kaur, J

1. The petitioner has approached this Court under Article 226 of the Constitution of India, assailing the Order dated 27.09.2017 passed by the respondent no.2, which upheld the Order dated 15.12.2014 passed by the respondent no.4, whereby the services of the petitioner were terminated on the ground of the petitioner furnishing false information against question nos. 12 (a), (b) and (c) of the Attestation Form (Verification Roll) at the time of his enrolment into service.

2. We may note herein the brief facts of the case.

3. The petitioner successfully qualified the open competitive examination conducted by the Staff Selection Commission (SSC) and was offered the post of Constable (General Duty) in the Sashastra Seema Bal (SSB) vide Memorandum No. 2/31/12/SSB(SSC)/Rectt. CT(GD)/ Pers-II/5700-5702 dated 04.03.2013. He was directed to report to the Commandant, Recruit Training Centre (RTC), SSB, Gorakhpur, Uttar Pradesh on or before 02.04.2013.

4. While joining the service, the petitioner accepted the terms and conditions specified in paragraph 2(xi) of the offer of appointment, which was issued to him through the aforesaid Memorandum. According to the terms and conditions outlined in the offer of appointment, the petitioner's services were liable to be terminated inter alia in case of him furnishing false or incorrect information at the time of appointment, if any of the facts or statements mentioned by him in the Verification Form are found to be false or incorrect, or if any adverse finding is reported against him.

5. On 15.03.2013, the petitioner joined the RTC, SSB, Gorakhpur, U.P., after filling up the Attestation Form/Verification Roll as required under Rule 4 (B) of the SSB Rules, 2009. In the said form, he stated in response to question no. 12 (a), (b) and (c) that he had never been arrested, prosecuted, or kept under detention, or imprisoned.

6. Subsequently, on 01.04.2013, he submitted an undertaking stating that if any adverse report arises during the verification of his character and antecedents through police authorities or local administration, his services may be terminated without assigning any reason.

7. Thereafter, vide the letter dated 12.07.2013, the respondents sent the abovementioned Verification Roll to the District Magistrate, Deoria, U.P.

8. In response, the District Magistrate, in a letter dated 20.03.2014, informed that an F.I.R No. 449A/2006, dated 25.10.2006 was pending against the petitioner under Sections 147, 323, 325, 504 and 506 of the Indian Penal Code, 1860 (IPC), at the Lar Police Station, Deoria, and the case was currently sub-judice before the learned Upper Civil Judge (Junior Division), District and Sessions Court, Deoria.

9. Upon receiving the verification report, the Commandant, 58th Bn./respondent no.4 issued a Show Cause Notice dated 31.03.2014 to the petitioner, directing him to explain why he should not be terminated from service under Section 25 of the SSB Act, 2007 read with Rule 23 of the SSB Rules, 2009 for providing false or incorrect information at the time of appointment.

10. In his reply dated 29.04.2014 to the Show Cause Notice, the petitioner stated that the aforesaid case had been lodged against him in 2006, when he was an adolescent, and he had no knowledge of the said case.

11. Thereafter, vide a letter dated 10.07.2014, the respondent no.4 requested the Superintendent of Police, Deoria/respondent no.5 to confirm whether the petitioner was aware of the registration of an FIR against him at the Police Station.

12. The respondent no.5, vide the letter dated 26.07.2014, informed the respondent no.4 that the petitioner was well aware of the pending criminal case as he had been arrested by the police and sent to jail on 12.11.2006, and that the case is pending before the Court.

13. After considering all the facts, the respondent no.4, being the disciplinary authority, terminated the petitioner's service vide the Impugned Order dated 15.12.2014 in accordance with Rule 23 of the SSB Rules, 2009.

14. Dissatisfied, the petitioner preferred an appeal under Rule 29 of the SSB Rules, 2009 before the Deputy Inspector General, SHQ, SSB, Lakhimpur Kheri/ respondent no.3, which was subsequently dismissed on 20.05.2015.

15. Thereafter, the petitioner filed a second appeal before the Director General (DG), SSB/respondent no.2 seeking reconsideration of his reinstatement in service. Vide Impugned Order dated 27.09.2017, the respondent no.2 rejected the second appeal as being devoid of merit.

16. Aggrieved by this predicament, the petitioner approached this Court by way of the present petition.

Submissions of the Parties

17. Mr. G.D. Chotmurada, the learned counsel for the petitioner, submitted that the respondent no.2 has mechanically passed the Impugned Order dated 27.09.2017, ignoring the policy guidelines laid down by the Ministry of Home Affairs (MHA), as well as the fact that the petitioner was declared a juvenile by the Juvenile Justice Board, a decision which was affirmed by the Court of the Additional Session Judge, Deoria, in its Order dated 04.11.2017.

18. He submitted that the policy guidelines laid down by the MHA were notified on 01.02.2012 to consider the cases of candidates against whom criminal matters are pending, when such candidates are applying for the various posts in the Central Armed Police Forces (CAPFs). Further, the learned counsel submitted these guidelines come to the aid of the petitioner, especially paragraph III, which provides for an exemption stating that candidates shall not be debarred if they have not been involved in, convicted for, or concerned with minor offences outlined in Annexure B, or those specified in Chapters VIII and X of the Code of Criminal Procedure, 1973.

19. He submitted that the respondent no.4 terminated the petitioner's service vide the order dated 15.12.2014, solely based on the communication dated 26.07.2014 received from the Superintendent of Police, Deoria, which wrongly reported that the petitioner was sent to jail on 12.11.2006. He submitted that the information obtained by the petitioner through Right to Information, vide letter No. 23/Jan Soचना dated 03.01.2018, conclusively proves that the petitioner was neither arrested nor sent to jail. Therefore, the termination order dated 15.12.2014 is void ab initio and was passed without justifiable cause.

20. He further submitted that due to an ongoing land dispute between the petitioner's family and their extended family, an FIR No. 449/2006 was lodged by the paternal uncle of the petitioner under Sections 147, 148, 323, 326, 452, 504 and 506 IPC against their extended family members. In retaliation, one of the

individuals named in the said FIR, filed a counter FIR No. 449A/2006 under Sections 147, 323, 325, 504 and 506 IPC, in which the petitioner along with other family members, was named as an accused. He further contended that the petitioner had no role whatsoever in the above case and was falsely implicated by his extended family members out of pure vengeance.

21. The learned counsel drew our attention to the fact that the petitioner attended the Court proceedings only on 2-3 occasions, as is evident from the Court records. Additionally, he was informed by the earlier counsel, and was under the bona fide belief, that the case would be dropped against him as he was a juvenile. Therefore, the petitioner gave a reply in the negative to question nos. 12 (a), (b) and (c) of the Attestation Form since the petitioner was neither formally arrested nor sent to jail and genuinely believed that he is innocent.

22. The learned counsel finally contended that the respondent no.4, before passing the Impugned Order dated 15.12.2014, did not provide a copy of the letter received by them from the Superintendent of Police, Deoria nor called for any comments from the petitioner.

23. In support of his plea, he placed reliance on the following decisions:-

a) Commissioner of Police and Ors. vs. Sandeep Kumar, (2011) 4 SCC 644.

b) Avatar Singh vs. Union of India, (2016) 8 SCC 471.

c) Jainendra Singh vs. State of UP through Principal Secretary, Home & Ors., (2012) 8 SCC 748.

d) Md Parvej Alam vs. Union of India & Ors., 2024:DHC:1477-DB; and

e) Supdt. of Police, Villupuram District vs. S. Rajesh Kumar, in W.A. No. 2759/2018, dated 11.01.2019.

24. Per contra, Ms. Pratima N. Lakra, learned counsel for the respondents, controverting the above made submissions, contended that the writ petition is liable to be dismissed as the petitioner had deliberately concealed the fact regarding the registration of an FIR No. 449A/2006 against him. Further, the respondent no.4, had rightly terminated the services of the petitioner vide the Impugned Order dated 15.12.2014, after examining all the facts of the case.

25. She further contended that the stand taken by the petitioner that he was a juvenile at the time of the offence does not absolve him of the misconduct of furnishing false information, which he had knowingly withheld, and attracts Rule 23 of the SSB Rules, 2009, which specifically deals with termination of service on the ground of furnishing false or incorrect information at the time of appointment.

26. The learned counsel submitted that the Disciplinary Authority took an appropriate action by issuing a Show Cause Notice to the petitioner in accordance with Rule 23 of the SSB Rules, 2009 as well as in accordance with the policy guidelines issued by the MHA vide F/No.45020/6/2010-Pers-II dated

01.02.2012, for furnishing false information and wilfully concealing facts in the Attestation Form/Verification Roll at the time of his initial appointment. Moreover, he was provided with a reasonable opportunity to present a defense against the proposed termination from service within 30 days. Therefore, no injustice has been caused to the petitioner.

27. She also contended that as per the aforesaid policy guidelines, if an individual is involved in a criminal case or is arrested under the provisions of the IPC related to serious offences or moral turpitude, such as Section 325, the candidate will not be considered for recruitment. In the present case, the petitioner was charged under Sections 323, 325, 504, and 506 IPC, and as per Sub-Clause 8 of Annexure A of these policy guidelines, Section 325 IPC is classified as a serious offence affecting the human body.

28. Concluding her arguments, the learned counsel submitted that any reconsideration of the petitioner's case in the CAPF, especially taking into account his background and stigmatic moral character, would severely impact the administration and discipline of the Armed Police Force. She further added that the judgments relied upon by the petitioner have been decided on their own facts and are, therefore, not applicable to the facts of the present case.

29. In support of her plea, she placed reliance on the judgments of the Supreme Court in *Avatar Singh vs. Union of India* (supra) and of this Court in *Shishir Yadav vs. Union of India & Ors.*, 2014 SCC OnLine Del 6962.

Analysis and Findings

30. Having considered the submissions of the learned counsels for the parties and perused the record, we may begin by noting that the primary submission of the petitioner is that on the day of the occurrence of the offence, that is, 22.10.2006, the petitioner was a juvenile, having completed 15 years 02 months and 12 days of age. Even if he is convicted for the offences with which he has been charged, he shall not suffer disqualification as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and also as per the earlier Juvenile Justice (Care and Protection of Children) Act, 2000 (in short, 'JJ Act, 2000').

31. Opposing the claim of the petitioner, the respondents contended that at the time of consideration of the petitioner's candidature, an Attestation Form (Verification Roll) duly filled out by the petitioner was looked into in order to ascertain his conduct and involvement in any criminal or civil case. In the said form, the petitioner had declared that he had never been arrested/prosecuted nor remained under detention. He also furnished an undertaking that if any adverse report comes to notice of the respondents during the course of verification of his character and antecedents through local administrators/Police authorities, his service may be terminated without assigning any reason. However, during the police verification regarding the antecedents of the petitioner, it came to light that FIR No. 449A/2006 under Sections 323, 325, 504,

506 IPC at the Lar Police Station, Deoria was pending against the petitioner, and he was arrested by the Police and sent to jail on 12.11.2006 for having been involved in the abovementioned FIR.

32. The position of law is well settled that the verification of the character and antecedents is one of the important criteria to determine whether the selected candidate is suitable for the post to which they are selected. Although, such a candidate may be found physically fit, may have passed the written test and interview, and may also have been provisionally selected, nonetheless, if the antecedents are unclean or if they have committed fraud upon their employer in securing such employment, their candidature may be recalled. Such verification is desirable and important to appoint a person to a disciplined Force. 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. Any suppression of material information at the time of recruitment by an individual will have a clear bearing on the character and antecedents of such a candidate in relation to their appointment/continuity in the service. It is open to an employer to adjudge the antecedents of a candidate; however, the ultimate action should be based upon the objective criteria, and on due consideration of all relevant aspects.

33. Noting the above principles, we may revert to the facts of the present case. It is not disputed that a criminal case bearing FIR No. 449A/2006 under Sections 323, 325, 504 and 506 of IPC at the Lar Police Station, Deoria is pending against the petitioner. However, the Court of the Principal Magistrate/Juvenile Justice Board, Deoria had conducted an inquiry into the age of the petitioner and vide the Order dated 26.11.2016, declared him as a juvenile on the date of the alleged commission of the offence. Aggrieved by the finding, the complainant in the said criminal case preferred an appeal before Additional Session Judge, Deoria, who dismissed the appeal and upheld the findings of the Juvenile Justice Board vide the Order dated 04.11.2017. Therefore, the petitioner was a juvenile at the time of the relevant occurrence.

34. Having said so, in order to appreciate the contention of the petitioner that it was not obligatory for him to have even revealed any information about his criminal antecedents in the light of objectives and scheme of JJ Act, 2000, which was invoked at the relevant time, we may refer to Section 2(k) of the JJ Act, 2000 that defines 'Juvenile' as one who has not completed 18 years of age. Section 2(l) of the JJ Act, 2000 defines 'Juvenile in conflict with law' as a juvenile who is alleged to have committed an offence. Further, Section 19 of the said Act which deals with the removal of disqualification attaching to conviction, reads as under:-

"19. Removal of disqualification attaching to conviction.- (1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer

disqualification, if any, attaching to a conviction of an offence under such law.

(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be."

35. Undoubtedly, after a tough selection procedure, the petitioner had qualified the written test, the physical test and had been successful for being appointed in the Force, however, he was terminated (dismissed) from service under Rule 23 of the SSB Rules, 2009 vide the Order dated 15.12.2014 passed by the respondent no.4 on the ground that he had furnished false and incorrect information at the time of his appointment and suppressed the relevant facts.

36. The learned counsel for the petitioner vehemently submitted that the petitioner had not furnished any incorrect information about himself as he had given correct answers to question nos. 12 (a), (b) and (c) in his Attestation Form (Verification Roll), which required him to give details regarding whether he was ever arrested, prosecuted or kept under detention or imprisonment. As the petitioner was not arrested, detained or imprisoned, therefore, he had answered the said questions in the negative. Further, being hardly 15/16 years of age, he could not have comprehended that he was facing a criminal trial and was being prosecuted, more so since it was a family dispute, therefore, he had furnished the information in his Attestation Form (Verification Roll) as not being prosecuted. He submitted that the respondent no.4 had erroneously placed reliance on the report of the respondent no.5, who had stated that the petitioner was sent to jail in respect of the aforementioned FIR No.449A/2006 on 12.11.2006, whereas the petitioner has furnished on record the information received by him through the Superintendent, District Jail, Deoria, through RTI, who had reported that petitioner was not confined in jail in the criminal case related to FIR No.449A/2006.

37. It is relevant to note that the Parliament had enacted the JJ Act, 2000 to protect a juvenile in conflict with law. The basic purpose of Section 19 of the JJ Act, 2000 is that there shall not be any stigma against such juvenile, even if convicted of an offence that has been dealt with under the provisions of the JJ Act, 2000. Such a juvenile shall not suffer disqualification, if any, attached to the conviction of an offence. Therefore, if the plea of the respondents is to be accepted, then the same will amount to ignoring the legislative intent in enacting a progressive and beneficial piece of legislation, whereby a juvenile is permitted to join the main stream without stigma. Further, Section 21 of the JJ Act, 2000 prohibits publication of the name of a juvenile in conflict with law with the object of protecting his/her identity from adverse consequences on account of conviction for an offence committed as a juvenile, and the records of the case pertaining to the criminal involvement of a juvenile are to be obliterated after the specified period.

38. Given the aforesaid, the contention of the respondents that the petitioner

was under an obligation to have disclosed information relating to the pendency of a criminal case against him would run contrary to the very spirit of the JJ Act, 2000 as at the time of the alleged commission of the offence, the petitioner had not even completed 16 years of age.

39. We may add that even when the police verification in respect of the petitioner was being conducted to verify his antecedents, the concerned police station ought to have refrained from revealing the information pertaining to the petitioner in the criminal case, since he was a juvenile at that point in time. This was, in fact, a gross breach of the object of the JJ Act, 2000.

40. We find that the issue raised in the present petition is squarely covered by Commissioner of Police and Ors. vs. Sandeep Kumar (supra), relied upon by the petitioner. In the said case, while dealing with an effectively similar issue when the candidature of the petitioner therein was cancelled because he had concealed the fact of his involvement in a criminal case under Sections 325 and 34 IPC and had made a wrong statement in his application form, the Supreme Court held as under:

"8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

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12. 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, dacoity or rape, and hence a more lenient view should be taken in the matter."

41. In Mukesh Yadav vs. Union of India & Ors., 2017:DHC: 7815-DB, the petitioner therein had applied for the post of Constable in the Railway Protection Force (RPF), but his candidature was cancelled as during the selection process, he had not declared the criminal case against him in the attestation form, however, subsequent verification revealed an undisclosed criminal case pending against him. This Court, while noting that the petitioner therein was a juvenile as on the date of the alleged offence, held as under:-

" 8. Having regard to the legal position, which shows that the petitioner was undoubtedly, a juvenile on the date when the alleged offence had been committed and, therefore, he was required to be dealt with under the Juvenile Justice (Care & Protection of Children) Act, 2000 (hereinafter referred to as the

"Act") which declares that all criminal charges against individuals, who are described as "juvenile in conflict with law" must be initiated and decided by the authorities constituted under the Act by the Juvenile Justice Board. Even if a conviction is recorded by the Juvenile Justice Board, Section 19(1) of the Act, stipulates that the juvenile shall not suffer any disqualification attached to the conviction of an offence under such law. Further, as noted hereinabove, Section 19(2) of the Act contemplates that the Board must pass an order directing that all the relevant records relating to such a conviction, be removed after the expiry of the period of appeal or within a reasonable period as prescribed under the rules, as the case may be.

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10. Given the aforesaid position, the contention of the respondents is that petitioner was under an obligation to have disclosed the information relating to the pendency of the criminal case against him in respect of an incident that had taken place when he was all of twelve years, would run contrary to the very spirit of the Act. Keeping in mind the fact that the object of the Act is to ensure that no stigma is attached to a juvenile in conflict with law, in our view, once the juvenile has been extended a protective umbrella under the said enactment, there was no good reason for the respondents to have insisted that the petitioner ought to have disclosed the information relating to the allegations against him pertaining to an offence that was committed during his childhood where he was tried by the Juvenile Justice Board, and subsequently acquitted. We may add here that even when police verification in respect of the petitioner was being conducted on the directions of the respondents, the concerned police officials ought to have refrained from revealing the information pertaining to the petitioner in the case in question, since he was a juvenile at that point in time. This was in fact a gross breach of confidentiality contemplated under the Act.

42. In *Md Parvej Alam (supra)*, the petitioner therein had been working in the Central Reserve Police Force (CRPF) for almost about 17 years, when a departmental inquiry was initiated against him regarding the non-disclosure of a criminal case pending against him at the time of his joining. This Court, while noting that the petitioner therein was a juvenile (17 years 2 months 8 days) at the time of registration of the FIR, in light of the objectives of the JJ Act, 2000 and by relying upon *Akhilesh Kumar vs. Union of India Ors.*, (2018) SCC OnLine Del 7341, which in turn relied upon *Mukesh Yadav (supra)*, held that the petitioner therein was under no legal obligation to have revealed the fact about his previous involvement in a criminal case for an offence which he allegedly committed when he was a minor.

43. Having regard to the legal position, the factum of prosecution of the petitioner in the case of FIR No.449A/2006 under Sections 323, 325, 504, 506 IPC at the Lar Police Station, Deoria could not have been taken into consideration by the respondents on the petitioner's omission to mention the same in the attestation form on account of him being a 'Juvenile in Conflict with Law' on the

date of the alleged commission of offence.

44. The judgments relied upon by the respondents are distinguishable on facts, therefore, reliance placed on them is misplaced. In *Shishir Yadav (supra)*, the petitioner therein was not a juvenile at the time of his involvement in the criminal case.

45. For the aforesaid reasons, the Impugned Orders dated 27.09.2017 and 15.12.2014 are unsustainable and are set aside. The respondents are directed to reinstate the petitioner in service within a period of twelve weeks from today, along with all consequential benefits, excluding back wages.

46. The petition is, accordingly, allowed.