IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1101 of 2022

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Nirmala Kumari D/o Shri Mehar Chand Das Resident of Village - Below, P.S. - Barbigha, District- Shekhpura.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, (Home) Police Department, Bihar, Patna.
2. The Director General of Police - cum- Inspector General of Police, Bihar, Patna.
3. The I.G. B.M.P. Bihar, Patna.
4. The D.I.G. B.M.P. Kendriya Mandal, Patna.
5. The Commandant, B.M.P. - 02, Dihri.
6. The Superintendent of Police, Sasaram.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Sinha, Advocate
For the State	:	Mr. Manoj Kumar (AC to GP-4)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 05-01-2026

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for the following relief/s:-

> *"I. To issue an appropriate order/s direction/s including a writ preferably in the nature of CERTIORARI for quashing the order dated 15-05-19 as contained in Memo No. 620/R.K. passed by the DIG, BMP, Ke. Ma. Patna whereby and where under has been affirmed the order passed by The Commandant B.M.P. -02, Dihri*

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vide Police order NO. 1296/2018 vide letter dated 17-11-2018 by which the petitioner has been dismissed from her service having her constable No. 143.

II. To quash the police order No. 1296/2018 communicated by letter dated 17-11-2018 passed by the Commandant, B.M.P.2, Dihari by which the petitioner has been dismissed from her service having her constable No. 143.

III. To direct the respondents to re-instate the petitioner on the post of constable and make the payment of full pay and salary including arrears of salary if any.

IV. To any other relief/s to which the petitioner maybe found entitled in the facts and circumstance of the case."

3. Learned counsel for the petitioner submits that the petitioner was selected on the post of Constable and joined on 01.08.2018 following the selection process and before going on training, she was given a verification form to fulfill the same which the petitioner filled up and submitted to the authority concerned on 05.07.2018. The petitioner sent to B.M.P-2, Dihri for getting her training. Counsel submits that the petitioner

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received a letter from the Commandant B.M.P-2, Dihri bearing Letter No. 3190 dated 11.10.2018 stating therein to submit a show cause within seven days. According to him, there was allegation against the petitioner that a suppression has been made in the said verification form. Counsel submits that the petitioner has filled up her verification form ignorantly and not deliberately. Counsel submits that the format of the verification form was not clear as per the knowledge of the petitioner and only due to this reason, she has filled up the said form in such a manner. Counsel further submits that subsequently, *vide* Police Order No. 1296/2018 dated 17.11.2018, the petitioner was dismissed from her service without considering her show cause. Thereafter, the petitioner filed an appeal before the Appellate Authority, but when no decision was taken, then the petitioner has filed writ petition before this Hon'ble Court bearing C.W.J.C. No. 5331 of 2019 which was disposed off *vide* order dated 08.04.2019 directing the Deputy Inspector General of Police to dispose off the appeal of the petitioner as expeditiously as possible and while deciding the appeal, all the grounds urged on behalf of the petitioner which has been noted in the present order shall be taken into consideration and order shall be passed in accordance with law within the stipulated time frame.

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Thereafter, when the order was not passed then the petitioner preferred M.J.C petition bearing M.J.C. No. 2330 of 2019 which was disposed off by the Lok Adalat on 11.09.2021.

4. Learned counsel for the petitioner further submits that the impugned order here is the order dated 15.05.2019 contained in Memo No. 620/R.K. (annexed as Annexure-11) passed by the D.I.G. B.M.P. Kendriya Mandal, Patna by which the decision of removal of the petitioner from service has been affirmed. Thereafter, the petitioner has filed the present writ petition challenging both the orders i.e. the order dated 15.05.2019 contained in Memo No. 620/R.K. (annexed as Annexure-11) as well as the Police Order No. 1296/2018 dated 17.11.2018 (annexed as Annexure-4), by which the petitioner was dismissed from her service having her Constable No.143. Counsel for the petitioner is relying on a decision rendered by the Hon'ble Supreme Court of India dated 21.07.2016 in case of ***Avtar Singh Vs. Union of India & Ors.*** passed in ***Special Leave Petition (C) No. 20525 of 2011*** (annexed as Annexure-8). Counsel submits that in the said judgment, the Hon'ble Supreme Court of India has pleased to summarize conclusion in paragraph no. 30. Counsel submits that in paragraph no. 30(4) of the said judgment, it is a categorical finding that in case there

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is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filing of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case. Counsel submits that considering the said decision, the Hon'ble Single Judge of this Court at the time of passing order in C.W.J.C. No. 5331 of 2019 dated 08.04.2019 has pleased to direct the Deputy Inspector General of Police to dispose off the appeal of the petitioner as expeditiously as possible and while deciding the appeal, all the grounds urged on behalf of the petitioner which has been noted in the present order shall be taken into consideration and order shall be passed in accordance with law within the stipulated time frame. Counsel submits that none of the points were considered which is apparent from Annexure-11 and therefore, he submits that it requires interference of this Hon'ble Court again.

5. Learned counsel for the State on the other hand submits that the verification form which is annexed as Annexure-1 to the present writ petition is categorical and very much clear as contained in Clause 7 & 8 of the said verification form which states as follows:-

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"क्या आवेदक कभी दांडिक "फौजदारी" या सिविल "दीवानी" मामले में अभियुक्त रहा है अथवा कभी कारावास भुगत चुकी है ? विवरण दें।

नहीं ।

क्या आवेदक ऋणग्रस्त है और उसके विरूद्ध कोई दांडिक "फौजदारी" या सिविल "दीवानी" मामला विचाराधीन है?

नहीं ।"

6. Counsel for the State further submits that in the said verification form, it was categorically stated in Clause 7 that whether the applicant has ever been accused in a criminal or civil case or has ever been sent to jail, the entry has been made therein as 'No'. The Clause 8 indicates that whether the applicant in debt and whether any criminal case or civil suit is pending against him, the entry has been made as 'No'. Counsel further submits that from the pleading of the petitioner itself it is admitted that on the date of filing of the form, there was a criminal case pending against the petitioner. In this regard, the State heavily relied on the judgment of the Hon'ble Supreme Court of India in case of ***Rajasthan Rajya Vidyut Prasaran Nigam Limited & Anr. Vs. Anil Kanwariya*** reported in ***(2021) 10 SCC 136*** and submits that the relation between the employer and employee is of trust. In the verification form, the truth has

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to be narrated, but the petitioner has not narrated the truth, rather, suppressed the fact about the pendency of the case and therefore, according to him in the light of the said decision, the petitioner is not entitled for consideration of her appointment and this aspect has been categorically discussed in the impugned order and the reason has also been assigned in the impugned order. Counsel also submits that the said verification has been made in the light of Rule 673(c) of the Bihar Police Manual, 1978. In this background, counsel for the State submits that the case of the petitioner is not entertainable and fit to be dismissed.

7. In the light of the submissions made, this Court has perused Annexure-1 which is a verification form in the light of the Rules 656 & 673 of the Bihar Police Manual 1978 and Rule 673(c) is very much clear which states as follows:-

> *"(c) Enlistment orders. The order for enlistments shall then be entered in the order book, the service book shall be prepared and the verification roll despatched to the Superintendent of the district in which the recruits home is situated. The number and date of despatch shall be noted in the proper place in the service-book, and on the return of the roll with a report that the man bears a good character and*

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> *has made a truthful statement as to his antecedents, the Superintendent shall initial this entry, have the necessary entry made in the service-book and order the verification roll to be filed. If the character of the man is reported to be bad or his statement false, he shall be removed from the force."*

8. It further transpires to this Court that from the record, it is apparent and admitted position that on the date of filing up of the verification form, there was a criminal case pending against the petitioner about which the statement has been made in the verification form that 'no' criminal case is pending and in this view of the matter, it transpires to this Court that the statement of petitioner is false.

9. So far as the judgment on which the petitioner is relying in case of ***Avtar Singh (supra),*** its paragraph no. 30(4) is very much clear and states as follows:-

> *"(4) In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filing of the application/verification form and such fact later comes to knowledge of*

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employer, any of the following recourse appropriate to the case may be adopted:-

(a) 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.

(b) Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

(c) 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."

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10. Upon bare reading of the said observation of the Hon'ble Supreme Court in case of ***Avtar Singh (supra)***, it is apparent to this Court that in case there is a suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filing of the application/verification form is not the actual fact in the present case. In the present case at the time of filing up the verification form, a false statement has been inserted in the verification form. Therefore, this judgment shall not help the petitioner in any manner.

11. So far as the judgment of ***Rajasthan Rajya Vidyut Prasaran Nigam Limited & Anr. (supra)*** is concerned, its paragraph nos.14 & 15 are very much clear which states as follows:-

> *"14. The issue/question may be considered from another angle, from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment i.e. while submitting*

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the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right.

15. In view of the aforestated facts

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and circumstances of the case, both, the learned Division Bench as well as the learned Single Judge have clearly erred in quashing and setting aside the order of termination terminating the services of the respondent on the ground of having obtained an appointment by suppressing material fact and filing a false declaration. The order of reinstatement is wholly untenable and unjustified."

12. It also transpires that in paragraph no. 8.8 of the judgment of ***Rajasthan Rajya Vidyut Prasaran Nigam Limited & Anr. (supra)***, the said decision of ***Avtar Singh (supra)*** has also been discussed in this manner which states as follows:-

"8.8 After reproducing and/or reconsidering para 38.5 of the decision in Avtar Singh [Avtar Singh v. Union of India, (2016) 8 SCC 471 : (2016) 2 SCC (L&S) 425], in para 13, this Court observed and held as under : (Abhijit Singh Pawar case [State of M.P. v. Abhijit Singh Pawar, (2018) 18 SCC 733 : (2019) 3 SCC (Cri) 431 : (2019) 2 SCC (L&S) 420], SCC p. 742)

"13. In Avtar Singh [Avtar Singh v. Union of India, (2016) 8 SCC 471 :

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(2016) 2 SCC (L&S) 425], though this Court was principally concerned with the question as to non-disclosure or wrong disclosure of information, it was observed in para 38.5 that even in cases where a truthful disclosure about a concluded case was made, the employer would still have a right to consider antecedents of the candidate and could not be compelled to appoint such candidate."

13. After hearing both the parties and upon perusal of the relevant rules and the judgments reported by counsel for the petitioner and the Respondent-State, this Court reached on the conclusion that the statement made by the petitioner in the verification form is false and the petitioner is not entitled for any relief as per the above facts and circumstances as well as the established law of the land. Hence, this writ petition stands dismissed.

(Dr. Anshuman, J)

Divyansh/-

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