



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B.Civil Writ Petition No. 8251 / 2016

Bhagirath Singh Godara S/o Shri Dungar Ram Godara, aged about 30 years, R/o Vill. Khangta, Vaya Pipar, Dist. Jodhpur (Raj.)

----Petitioner

Versus

1. The State of Rajasthan through the Secretary, Home Department, Government of Rajasthan, Secrtariat, Jaipur.
2. The Director General of Police, State of Rajasthan, Jaipur (Raj.).
3. The Inspector General of Police, Jodhpur Range, Jodhpur.
4. The Additional Commissioner of Police, Jodhpur Commissionerate (Raj.).

----Respondents

For Petitioner(s) : Mr. Ramdev Potalia

For Respondent(s) : Mr. Anil Bissa

HON'BLE MS. JUSTICE NIRMALJIT KAUR

Judgment / Order

20/01/2017

The petitioner had applied for the post of Constable advertised in pursuance to the recruitment notice dated 14.07.2013. The petitioner appeared in the written examination and was declared successful. He was also declared successful in the Physical Standard Test. The respondent issued a final selection list of the selected candidates wherein the name of the petitioner was shown at serial No.206. The respondents called the petitioner for medical verification. However, after getting his medical examination, he was required to fill declaration certificate, personal information form with the verification roll. In the said verification roll, at Serial No.8, information was sought from the



petitioner as to whether he was accused in any criminal matter or committed to jail. The petitioner answered in the negative. The respondent did not issue any appointment order on the ground that a Criminal case No.148 dated 11.05.2014 was registered against him under Section 279, 337 IPC and 146/196 MV Act and he had provided wrong information and concealed the said fact.

Learned counsel for the petitioner contends that one criminal case was registered against him but he has since been acquitted in the said case in pursuance to the compromise between the parties. It is further stated by the learned counsel for the petitioner that the petitioner had disclosed the said fact much before the cancellation of his candidature through his application dated 25.06.2015 (Annex.7).

The Apex Court in the case of **Avtar Singh Vs. Union of India & ors. (Special Leave Petition [C] No. 20525/2011)** decided on 21.07.2016 has specifically held as under :-

“(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.

(3) The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

(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 : -

(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.”

It is evident that the judgment rendered by the Apex Court in the case of Avtar Singh (supra) was not before the authorities at the time when the order rejecting the candidature of the petitioner for appointment was passed.

In view of the judgment rendered by the Division Bench of this Court in the case of **Bhuta Ram Vs. The State of Rajasthan & ors. (D.B. Civil Special Appeal [Writ] No. 442/2016) decided on 08.08.2016** as well as judgment rendered in the case of Avtar Singh (supra), this Court deems it proper to remand the matter to the Inspector General of Police, Jodhpur Range, Jodhpur (Raj.) for passing fresh appropriate order with regard to the candidature of the petitioner for appointment on the post of Constable within three months from today while keeping in mind the Rule 13 of the Rajasthan Police Subordinate Service Rules, 1989, which vests discretion with the authorities.

The writ petition stands disposed of in the above terms.

(NIRMALJIT KAUR), J.

praveen

