

**(2013) 09 JH CK 0032**  
**Jharkhand High Court**  
**Case No:** WP (S) No. 7570 of 2012

Sanjay Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

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**Date of Decision:** Sept. 19, 2013

**Citation:** (2014) 1 AJR 545 : (2013) 4 JLR 448

**Hon'ble Judges:** Shree Chandrashekhar, J

**Bench:** Single Bench

**Advocate:** A. Pradhan, for the Appellant; Mokhtar Khan and Maltiyar, for the Respondent

**Final Decision:** Allowed

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**Judgement**

@JUDGMENTTAG-ORDER

Shree Chandrashekhar, J.

The petitioner has approached this Court challenging the order of termination dated 4.2.2012, the appellate order dated 30.5.2012 and order dated 21.8.2012. The brief facts of the case are that, the petitioner was appointed on 21.8.2010 as a Constable. The petitioner underwent training and after successful completion of his training from 21.8.2010 to 9.4.2010, he was posted at Bokaro Steel Plant. On 16.12.2011, a show-cause notice was issued to the petitioner on the allegation of furnishing false information in the Attestation Form. The petitioner submitted his explanation on 16.12.2011 however, by order dated 4.2.2012, the service of the petitioner was terminated on the ground of furnishing false/incorrect information in Attestation Form. The appeal preferred by the petitioner has been rejected by order dated 30.5.2012. Thereafter, the petitioner preferred a Revision Application and by letter dated 21.8.2012, the petitioner has been informed that there is no provision for revision. In these circumstances, the petitioner has approached this Court by filing the present writ petition.

2. A counter-affidavit has been filed stating as under:--

7. On joining in CISF, the petitioner submitted the Attestation Form duly completed in all the columns. As per guidelines and instructions of the Govt. of India, the Attestation Forms were sent to the District Magistrate, Allahabad (U.P.) for verification of his Character and Antecedents to determine the suitability of the petitioner for Govt. Service vide letter No. (3161) dated 13.5.2011. After verification of Character and Antecedents of the petitioner, the District Magistrate, Allahabad (U.P.) submitted the verification report vide letter No. C-643/011 dated 27.5.2011 intimating that on 13.10.2006 a NCR/Criminal Case No. 2827/2006 under Sections 323/504 and 325 of IPC was registered against the petitioner. But, later the petitioner was acquitted by the Hon"ble Special Chief Judicial Magistrate, Allahabad vide order dated 30.9.2011.

8. On receipt of information from the District Magistrate, Allahabad (U.P.), the petitioner was directed to explain the reason for giving wrong information in the Attestation Form within 7 days vide letter No. E-30013/CISF/BSL/C & A/Doc/11/4695 dated 16.12.2011. The reply of the petitioner was found unsatisfactory. Therefore, the services of the petitioner were terminated by the Appointing Authority i.e. Commandant/Adm, CISF Unit, BSL Bokaro vide order No. (192) dated 4.2.2012 in terms of sub-rule (4) of Rule 26 of CISF Rules, 2001 (amended rules 2007) on the ground of furnishing false/incorrect information in Attestation Form at the time of appointment in CISF. He was also paid one month's pay in lieu of one month's notice.

9. That being aggrieved with the termination order, the petitioner preferred an appeal/representation dated 28.3.2012 to the Appellate Authority i.e. IG, CISF (ES) Hqrs., Patna. The Appellate Authority considered the representation vis-a-vis facts held on record and confirmed the order passed by the appointing authority i.e. Commandant/Adm. CISF Unit, BSL Bokaro vide order No. (5979) dated 30.5.2012.

10. Thereafter, the petitioner submitted a representation dated 10.6.2012 to the Director General/CISF. Petitioner was informed that as per existing rule of CISF Rules, 2001, no further departmental remedy is available to him in the matter vide their letter No. (2633) dated 21.8.2012 as he has already availed the departmental remedy by way of appeal to the IG, CISF (ES) Hqrs., Patna.

11. Now the petitioner has filed the instant Writ Petition before the Hon"ble Jharkhand High Court at Ranchi for quashing the impugned orders dated 4.2.2012, dated 30.5.2012 and 21.8.2012 of the respondents and commanding upon the respondents not to give effect to the orders and to immediately reinstate the petitioner with all consequential benefits and full back wages.

12. That it is humbly submitted before the Hon"ble Court that Hon"ble Delhi High Court vide its judgment order dated 27.2.2009 delivered in W.P. No. 1041/2005 filed by Constable (sic) Mahato formerly of CISF Unit, ONGC, Mahsana vs. UOI & Others held that:--

A candidate having suppressed material information and/or giving false information can not claim right to continue in service. The employer having regard to the nature of the employment and all other aspect had the discretion to terminate his services, which is made expressly dear in para 9 of the offer of appointment. The purpose of seeking information as per columns 12 and 13 was not to find out either the nature or gravity of the offence or the result of a criminal case ultimately. The information in the said columns was sought with a view to judge the character and antecedents of the respondent to continue in service or not...

3. Heard the learned counsel appearing for the parties and perused the documents on record.

4. The learned counsel appearing for the petitioner has submitted that without conducting any enquiry into the matter and without affording sufficient opportunity to the petitioner, the service of the petitioner has been terminated. He has further submitted that the petitioner has specifically stated that he had no knowledge about the institution of the criminal case against him, at the time when the case was registered against him. A categoric statement has been made by the petitioner in paragraph No. 11 of the writ petition also. In support of the plea, the petitioner has furnished the Character and Antecedent Certificate issued by the Officer-in-Charge of the Police Station and these facts have not been considered by the respondent-authorities and only on the ground that, at the time when the petitioner had furnished his Attestation Form he failed to disclose the registration of the criminal case, his service has been terminated which cannot be justified.

5. On the other hand, the learned counsel appearing for the respondents has submitted that since a criminal case was instituted on 13.10.2006 and the petitioner was appointed on 21.8.2010 therefore, the registration of the criminal case was within the knowledge of the petitioner and therefore, it has been held that at the time of appointment, the petitioner suppressed the material information and on this ground, the order of termination dated 4.2.2012 has been passed against the petitioner.

6. On a perusal of the documents on record and more particularly, the counter-affidavit filed on behalf of the respondents, it does not appear that the specific defence taken by the petitioner that he had no knowledge about the institution of the criminal case, has been ascertained by the respondents. In the counter-affidavit it has also not been asserted that the petitioner was ever arrested or summon was issued to him and therefore, he had knowledge of the registration of the case. I find that in the writ petition also the petitioner has taken a specific plea that the registration of the criminal case was not within his knowledge and therefore, he could not furnish such information in the Attestation Form. I further find that the Officer-in-Charge of the concerned Police Station has issued a Character/Antecedent Certificate in favour of the petitioner and from this certificate it would appear that even the Officer-in-Charge of the Police Station was not

knowing the registration of the criminal case against the petitioner. It is not the case pleaded by the respondents that such Character Certificate has been obtained by the petitioner in collusion with the Officer-in-Charge of the police station. In the aforesaid facts, I am of the considered opinion that without ascertaining these facts only because the criminal case was instituted prior to the appointment of the petitioner, a finding could not have been recorded by the disciplinary authority that the petitioner had suppressed the material information, therefore, his appointment was liable to be terminated.

7. In the aforesaid facts, the impugned orders dated 4.2.2012, 30.5.2012 and 21.8.2012 are hereby quashed and the petitioner is directed to be reinstated in the service with all consequential benefits from the date of termination i.e. 4.2.2012. The writ petition is allowed in the aforesaid terms.