



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO. 860 OF 2025 (S-RES)

BETWEEN:

1. THE CHIEF ADMINISTRATIVE OFFICE
THE PRINCIPAL DISTRICT AND SESSIONS COURT,
KOLAR, KOLAR TALUK AND DISTRICT -563 101

2. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
KOLAR TALUK
AND DISTRICT-563 101

...APPELLANTS

(BY SRI. SRIRANGA, SENIOR ADVOCATE FOR SMT. SUMANA
NAGANAND., ADVOCATE)

AND:

1. SRI. MALLAPPA BASAPPA SAJJAN
AGED 42 YEARS,
C/O. SOMASHEKAR BASAPPA HALLUR,
NO.260, 1ST CROSS, BHUVANESHWAR NAGAR,
DASARAHALLI, BENGALURU - 560057

ALSO AT
R/OF, BIDARKUNDI,
MUDDEBIHAL TALUK,





BIJAPUR DISTRICT - 586 21

...RESPONDENT

(BY SRI. TUMBIGI PRABHUGOUDA BASAVANTARAYAGOUDA,
ADVOCATE FOR RESPONDENT No.1)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO

a) SET ASIDE THE ORDER DATED 10.01.2025 PASSED
BY THE LEARNED SINGLE JUDGE IN WP No. 4240/2019 (S-
RES) AND DISMISS THE WRIT PETITION, IN THE INTEREST
OF JUSTICE;

b) PASS SUCH OTHER ORDERS AS THIS HONBLE
COURT MAY DEEM FIT IN THE FACTS OF THE PRESENT
CASE IN THE INTEREST OF JUSTICE.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE)

1. Appellants have filed the present intra-court appeal,
impugning the order dated 10.01.2025 [**impugned order**] passed
by the learned Single Judge in Writ Petition No.4240/2019
captioned, "Sri. Mallappa Basappa Sajjan Vs. The Chief



Administrative Officer, The Principal District and Sessions Court, Kolar, and Another".

2. The respondent **[Sri. Mallappa Basappa Sajjan]**, had filed the afore-mentioned writ petition, impugning the communication dated 20.09.2018, whereby he was informed that his selection to the post of 'Peon', was cancelled.

3. Appellant No.2 **[The Principal District and Sessions Judge, Kolar]**, had issued a notification dated 11.11.2011 inviting applications for posts of Stenographers, Typists, Copyists and Peons, in the Judicial Department, Kolar District, from all eligible candidates in the format as enclosed along with the said notification. The said notification indicated that there were fifteen (15) vacancies for the post of 'Peon'. The eligibility conditions required the candidates to have passed VII Standard or equivalent examination prior to the last date of receiving the application, which was specified as 31.01.2012.

4. The applicants were required to furnish their applications in the required format, along with copies of the relevant documents including the 'Character Certificate', certified by two respectable



persons, obtained within the last six months from the last date of sending the applications.

5. The respondent furnished his application in terms of the said notification, within the stipulated period. He was called upon to appear for an interview on 10.11.2016 along with the originals of all documents. The respondent was selected for the post, under a reserved category. He had also submitted the certificate of caste and income. The said certificates were forwarded by the appellants to the Deputy Commissioner, Vijayapura District, Vijayapura, for verification under the cover of a letter dated 03.01.2017. Simultaneously the appellants also sent a communication to the Superintendent of Police, Vijayapura District, Vijayapura, requesting for a verification of the background of some of the selected candidates, including the respondent.

6. The certificates furnished by the respondent were duly verified. However, the concerned police authorities reported that the respondent was convicted for an offence punishable under Section 87 of the Karnataka Police Act, 1963 [**'KP Act'**], and had paid a fine of ₹300/- in C.C.No.605/2013, before the JMFC Court of Muddebihal. On receipt of the said report, the appellant passed the



order dated 20.09.2018 cancelling the respondent's appointment as a Peon. The respondent represented against the said order dated 20.09.2018 by furnishing a representation dated 02.11.2018, *inter alia* claiming that he was not involved in committing any offence. He submitted that a crowd had collected and being curious, he went to watch. However, he was implicated of committing an offence under Section 87 of the KP Act, which concerned gaming in public streets. The said section is set down below:

"87. Gaming in public streets.- Whoever is found gaming or reasonably suspected to be gaming in any public street, or thoroughfare, or in any place to which the public have or permitted to have access or in any race course shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to three hundred rupees, or with both and where such gaming consists of wagering or betting, any such person so found gaming shall, on conviction, be punishable in the manner and to the extent referred to in section 80 and all moneys found on such person shall be forfeited to the Government.

[Any] police officer may seize all things reasonably suspected to be instruments of gaming found in such public street, thoroughfare, place or race course or on or about the person of those whom he shall so arrest, and the Magistrate



may, on conviction of the offender, order such instruments to be forthwith destroyed. When anything has been found on or about any person and a court is satisfied that the police officer had reasonable grounds for suspecting that such thing was an instrument of gaming, such circumstance shall, until the contrary is proved, be evidence that such thing was an instrument of gaming and that the person on or about whom the thing was found was present for the purpose of gaming."

7. The respondent's representation was not accepted. Being aggrieved by the order dated 20.09.2018 cancelling the appointment to the post of 'Peon', the respondent filed the aforementioned writ petition in W.P.No.4240/2019 on 23.01.2019.

8. The learned Single Judge allowed the petition and set aside the order dated 20.09.2018, whereby the respondent's appointment was cancelled. The learned Single Judge, rejected the contention that the offence punishable under Section 87 of the KP Act was required to be construed as an offence involving moral turpitude. The learned Single Judge noted that, admittedly, the offence punishable under Section 87 of the KP Act was a non-cognizable offence. The Court also reasoned that gaming itself is not an offence. However, gaming in public street was punishable. The learned Single Judge, referred to a decision of the Supreme Court



in ***Pawan Kumar vs. State of Haryana and another : (1996) 4 SCC 17***, and faulted the appellants for cancelling the respondent's selection to the post of 'Peon' on account of conviction for a petty offence.

9. Learned Senior Counsel Mr. S. Sriranga appearing for the appellants assailed the impugned judgment on a singular ground. He submitted that the question whether the respondent was convicted of a petty offence, is not material. However, the fact that the respondent had concealed the same, was a sufficient reason to cancel the appointment.

10. A plain reading of the impugned order indicates that the appellants had contested the petition on the ground that the offence for which the respondent was convicted [offence punishable under Section 87 of the KP Act], involved moral turpitude. It was not the appellants' case that the respondent's appointment required to be terminated as he had failed to disclose his conviction for the said offence.

11. It is also material to note that the respondent was convicted of the offence on 28.12.2013, which was after he had made the



application for appointment pursuant to the notification dated 11.11.2011. The date on which application was made, is not readily discernable from the record. However, the last date for receiving the applications was 31.01.2012 and the respondent had made his application within the stipulated period. The statement of objections filed by the appellants to the writ petition, clearly indicates that it did not contain any averment to the effect that the respondent's appointment had been cancelled on account of furnishing inaccurate particulars on account of concealment of the fact of his conviction for the offence in C.C.No.605/2013.

12. Before the learned Single Judge, the appellants had relied on Rule 10 of the Karnataka Civil Services (General Recruitment) Rules, 1977 [**'KCS Rules'**] in support of their decision to cancel the respondent's selection to the post of 'Peon'. Section 10 of the KCS Rules is set down below:

"10. Conditions relating to suitability and certificates of Character-- No person shall be appointed to any post unless the Appointing Authority is satisfied that he is of good character and is in all respects suitable for appointment to Government service. Every candidate selected for direct recruitment shall furnish to the Appointing Authority



certificates given not more than six months prior to the date of his selection by two respectable persons unconnected with his college or university and not related to him testifying to his character, in addition to the certificate or certificates which may be required to be furnished from the educational institution last attended by the candidate. If any doubt arises regarding the suitability of a candidate for appointment to Government service, the decision of the Government shall be final."

13. The appellants had supported their decision to cancel the respondent's appointment on the ground that the Appointing Authority was not satisfied regarding the respondent's character for the reason that he was convicted in an offence punishable under Section 87 of the K.P. Act. There is no material on record to support the contention that the respondent's appointment was cancelled on account of non disclosure of his conviction.

14. In view of the above, we are not persuaded to accept that the order dated 20.09.2018 can be sustained on the ground that the respondent had furnished inaccurate particulars.

15. We concur with the view of the learned Single Judge that conviction for a petty offence would not be a ground for cancelling the offer of appointment.



16. It is also well-settled that non-disclosure of a conviction for petty offence, does not necessarily provide sufficient ground for cancellation of an appointment. In given cases, the decision to cancel the appointment of an employee or offer of appointment, has been faulted notwithstanding that the employee has failed to disclose conviction for a petty offence.

17. In ***T.S. Vasudevan Nair v. Vikram Sarabhai Space Centre : 1988 Supp SCC 795***, the Supreme Court considered a case where an employee had suppressed the fact that he was convicted in a case for shouting slogans during emergency. The Court found that in the given facts non-disclosure of being convicted under the Defence of India Rules for shouting slogans, could not be construed as material suppression on the basis of which an offer of appointment could be cancelled.

18. The learned Senior Counsel Mr. S. Sriranga referred to the decision of the Supreme Court in ***Avtar Singh vs. Union of India and Others : (2016) 8 SCC 471***, in support of his contention that the respondent's appointment was rightly cancelled on account of non-disclosure of his conviction for an offence under Section 87 of



the KP Act. We find that the said decision also does not entirely support the case of the appellants. In ***Avtar Singh vs. Union of India and Others***, the Supreme Court had examined several prior decisions and had held that the non-disclosure of any technical or trivial matter, would not be a ground to cancel the offer of appointment or terminate the services of an employee. The Court held that the suppression must be of 'material information' and not information that may not be material. The Court also emphasized that the nature of posts would also have a bearing on the question whether the appointment is required to be cancelled on account of suppression. Clearly, in cases of higher posts or sensitive positions, the employer would be justified in invoking a strict criteria. However, for lower posts, the criteria may be more relaxed. We consider it apposite to refer to the following extract from the decision in the case of ***Avtar Singh vs. Union of India and others***:

"35. Suppression of 'material' information presupposes that what is suppressed that 'matters' not every technical or trivial matter. The employer has to act on due consideration of rules/instructions if any in exercise of powers in order to cancel candidature or for terminating the



services of employee. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of power has to be in reasonable manner with objectivity having due regard to facts of cases.

36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by concerned authorities considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.

37. The 'McCarthyism' is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformative theory cannot be ruled out in toto nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for cancelling candidature or discharging an employee from service.

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



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.

38.5. 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.

38.7. 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 person against whom multiple criminal cases were pending may not be proper.

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."

19. In the given facts and circumstances of this case, we find no ground to fault the impugned order. The appeal is, accordingly, dismissed.

20. Pending applications if any, stand disposed of.

21. The parties are left to bear their own costs.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

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List No.: 1 Sl No.: 12