

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

TA 3/2026 with MA 19/2026(WPC 12868/2021)

Ex Rect (OPR) Shashi Ranjan Kumar Applicant
Versus
Union of India & Ors. Respondents
For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Rudra Paliwal, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)

ORDER

This application has been received on transfer from the Hon'ble Delhi High Court wherein the petition filed under Article 226 and 227 being WP(C) 12868/2021 by the applicant challenging his discharge from service vide order dated 03.12.2019 was pending and transferred to this Tribunal by the Hon'ble Delhi High Court vide order passed on 15.12.2025, finding the jurisdiction to decide the issue pending in the writ petition was with this Tribunal.

2. The writ petition was pending since 2021 before the Hon'ble Delhi High Court, the pleadings were completed and therefore when the matter was taken up on 09.01.2026, parties were granted opportunity to argue the matter on the next date if they do not want to file any further pleadings or documents. Accordingly, when the matter was taken up

on 30.01.2026, the parties argued the matter at length and thereafter the matter was reserved for judgment.

3. The applicant herein was enrolled in the Artillery Regiment of the Indian Army on 09.06.2018, he underwent his basic military training successfully from 11.06.2018 to 24.11.2018. Thereafter he underwent advanced military training from 23.12.2018 to 01.06.2019. After completing his military training before his enrolment in the service, the applicant was directed to fill up the Verification Roll in the Artillery Centre Nasik Road Camp. The applicant submitted the Enrolment Roll and in page 6 of the enrolment roll, he submitted certain information with reference to question Nos. 8(b), 8(g) and 8(h). As the information submitted by the applicant was sent for police verification to the Civil Authorities and the Civil Authorities vide their communication informed that the applicant was involved in three criminal cases which were initiated against him, a show cause notice was issued to the applicant asking him to show cause as to why on the grounds of suppression of relevant information with regard to the pendency of criminal cases against him, action should not be taken. The show cause notice issued to him on 20.09.2019 was replied by the applicant vide annexure P-5 at page 31 of the paper book

and thereafter the Commandant of the Artillery Centre, Nasik considered the matter and after evaluating the allegations leveled in the show cause notice, action was taken for dismissal of the applicant under the provisions of Army Act Section 20 read with Army Rule 17 as he was found to be unfit for service on the basis of the Verification Roll and its authentication by the Civil Authorities. It was found that he was unlikely to become a good soldier in view of his conduct in suppression of the fact intentionally and therefore the action was taken under Army Act Section 20 read with Army Rule 13 and Army Rule 13(3).

4. Challenging the said discharge vide order annexure P-1 dated 13.12.2019, applicant has filed this petition and it is the case of the applicant before us that he was falsely implicated by the co-villagers in pursuance to personal vendetta. The charges leveled against him were false, he was wrongly implicated in two criminal cases being case No. 112/2017 and case No. 65/2018 with serious charges against him which eventually lead to his discharge from the service of the Army. It is said that the petitioner has a very perfect case based on alibi in his defence. According to the petitioner with regard to case No. 112/2017, the applicant was residing in another town and was preparing for the army

recruitment when he was wrongly charged with the said case. That apart, with regard to charges pertaining to criminal case No. 65/2018, it is stated that this was registered while he was undergoing basic military training in the Artillery Centre at Nasik Road Camp. It is the case of the applicant that he comes from a humble background and has been rendered unemployed because of the family dispute in his village whereby his neighbour and relatives have connived against him and his family and have falsely influenced police authorities in furtherance to their melafide motives.

5. It is the case of the applicant that without ascertaining the veracity of the charges leveled against him and in violation to the Fundamental Rights available to the petitioner under Article 21 of the Constitution, the applicant has been falsely implicated and therefore, the case should be closed. The applicant has tried to indicate in the petition various reasons to say that he has been falsely implicated and that without verifying the truthfulness of his false implication in criminal cases the action taken is unsustainable. The applicant tries to argue before us that his involvement in the criminal case is not correct, he was falsely implicated and he tries to exert his defence which he proposes to take in the

criminal case as a ground for challenging discharge order. Mr. Ajit Kakkar took us through various facts including the documents submitted by the applicant, vide annexure P-3 to indicate that the applicant has been falsely implicated and the cases registered against him are fabricated and false.

6. However, respondents have filed the counter affidavit and submit that when the applicant was enrolled in the Army, the Verification Roll as required under the rules, i.e. the Verification Roll for Combat Recruits as provided under Para 139 Regulation for the Army Revised Edition 1987 was filled up by the applicant. The applicant filled up the Enrolment Roll annexure R-2 available from page 16 onwards on 09.06.2018 in the Office of Director Recruits ARO, Muzaffarpur which was attested by the Competent Authority. In the said form submitted by the applicant vide R-2 in reply to question 8(b), 8(g) and 8(h), he answered the queries made with a specific 'No'. The question and answers submitted by the applicant as is evident from Enrolment Form (R-2) are as under:-

“(a) Question Number 8(b) Have you ever been prosecuted? To which individual had replied 'No', whereas the petitioner had been prosecuted.

(b) Question Number 8(g) Has any complaint or report been made against you to the magistrate or police for any offence? to which the petitioner had replied 'No', whereas

cases mentioned at paragraph 5 (a) and 5 (b) above, were registered against him.

(c) Question Number 8(h). Is there any case pending against you in any Court of Law? to which the petitioner had replied 'No', whereas cases mentioned at paragraph 5 (a) and 5(b) above, were still under trial in Court and he had not produced any Court order for his acquittal in these cases."

7. This attestation form was thereafter forwarded to the Civil Authorities at Muzaffarpur vide annexure R-1 for police verification by the Competent Authorities and the Civil Authorities vide R-1 dated 25.05.2019 forwarded the Verification Form back to the Competent authority and in the verification report submitted from the office of District Collector Muzaffarpur on 06.06.2019, the adverse remarks made were that the applicant is unfit for military service since he was involved in the following criminal cases:-

"(a) Case Number 112/17 dated 23 September 2019 under section of 448, 341, 323, 354, 379, 504 and 34 of Indian Penal Code.

(b) Case Number 65/18 dated 07 August 2018 under section of 302, 120(B) and 34 of Indian Penal Code."

8. In view of the aforesaid information received as per the policy promulgated vide recruitment directorate rules issued on 13.11.1978 by the Adjutant General's Branch, Army

Headquarters, wherein it is stipulated that in case any adverse report is received by the Civil Authorities on verification, the matter should be dealt with in accordance with the rules. The matter was therefore forwarded to the competent authority and thereafter The Commandant, Artillery Centre, Nasik Road Camp issued the show cause to the applicant vide annexure R-4 on 20.09.2019 to enable him to show cause as to why his services should not be discharged in view of the adverse verification report received and suppression of fact. The applicant did not give any credible answer to the show cause notice issued to him and therefore based on the material available on record, the Competent Authority decided to discharge the applicant from service. The applicant's reply to the show cause notice is filed by the respondents along with annexure R-4, show cause notice at page 49 of the paper book. In para 2, the applicant admits submission of the verification form and his reply to the queries made by filling 'No' and he explains it by saying that as he has been falsely implicated, he filled up the form by saying a 'NO' and he further seeks apology for having said so.

9. Respondents submit that as the applicant is a member of a disciplined Armed Force, the employer should have confidence in employing such a person and if a man in

uniform suppresses material information, particularly, with regard to pendency of criminal case against him, the same is a disqualification and the person can be dismissed from service. Respondents rely upon the judgments of the Hon'ble Supreme Court in the case of Avtar Singh Vs. Union of India and Ors.(2016) 8 SCC 471, and in Civil Appeal 2754/2022 Union of India and Ors. Vs. Dilip Kumar Mallick dated 05.04.2022, and a judgment of Hon'ble Delhi High Court in WP(C) 5250/2018 Bineet Singh Bisht Vs. Union of India and Ors. to say that if an employee particularly a member of the defence force discloses false information in the verification form and which he does knowingly then such an employee cannot be kept in service and taking action against the employee concerned based on such considerations, interference into the matter should not be made.

10. We have heard learned counsel for the parties at length and considered the issue in question. Admittedly after the applicant was enrolled, he submitted a verification form vide R-2 on 09.06.2018. In his answer to question 8(b), 8(g) and 8(h), as reproduced hereinabove, with regard to, whether he has been prosecuted, whether any complaint or report has been made against him before any Magistrate or Police Officer and whether any criminal case is pending against him

in Court of law, he answered to all the queries by an emphatic 'NO' and when the information submitted by the applicant was forwarded to the Civil Authorities of District Muzaffarpur, Bihar, in reply to the same the Civil Authorities informed the Army Authorities vide their communication dated 25.05.2019 and 06.06.2019 to the effect that the following cases are pending against the applicant.

“(a) Case Number 112/7 under section 444B, 341, 323, 354/3, 504/34 of IPC registered in Police Station Siwaipatti.

(b) Case Number 6 dated 07 August 2018 under section of 302, 120 (B), 341 of IPC registered in Police Station Siwaipatti.”

11. Finding the applicant to have suppressed material information with regard to pendency of criminal case the show cause notice annexure R-4 was issued on 20.09.2019 and in reply submitted by the applicant on 07.11.2019, the applicant in Para 1 of his reply submits that he has been falsely implicated in the cases and he gives reasons about enmity in the village which has resulted in his false implication in the criminal case. Even though he admits about pendency of the criminal case, he says that he has been falsely implicated and he is not responsible for the offence indicated in the cases.

12. Having considered the contentions advanced and the material that has come on record, the issue is as to whether in the facts and circumstances, the action taken by the respondents to discharge the applicant based on the Verification Roll submitted by him is proper and as pleaded by the applicant any further enquiry is needed into the matter. The issue of submitting information when queries are made with regard to the antecedent of a person in a Verification Form or Form of Enrolment at the time of appointment has been subject matter of consideration before various courts for a long period of time and finally a larger bench of the Hon'ble Supreme Court in the case of *Avtar Singh(Supra)* laid down the parameters and principles for summarizing the legal position with regard to the issue in question. The Hon'ble Supreme Court in the aforesaid case in Para 34, 35, 36, 37 curled out the principles in the following manner:-

“34. No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects.

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. Thought 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 authorities concerned 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 reformatory 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."

13. In Para 36 as reproduced hereinabove, the Hon'ble Supreme Court indicates that the yardstick to be applied has to be depend upon the nature of the post and if the appointment is to higher post or to service like an uniform service the criteria for assessment becomes more rigorous and thereafter in Para 38 after the detailed discussion the conclusion has been summarized from Para 38.1 to

para 38.12 of the judgment and in Para 38.7, the principle laid down by the Hon'ble Supreme Court reads as under:-

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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.

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(emphasis supplied)”

14. After analyzing the aforesaid legal principles as laid down by the Hon'ble Supreme Court in the case of *Avtar Singh (Supra)*, the learned Division Bench of the Hon'ble Delhi High Court considered the issue in the case of *Bineet Singh Bisht(Supra)*, in its judgment rendered on 12.12.2023, the Hon'ble Division Bench after analyzing the situation in the case of suppression of information with regard to the pendency of criminal case by a Sub Inspector of ITBP came to the conclusion in Para 40 that deliberate suppression of material fact with respect to criminal case which was pending at the time of filling up of enrolment form would justify the action of terminating the service. In Para 41, the Hon'ble Delhi High Court says that an employee

cannot plead ignorance about such cases and the employer is free to take action in the matter.

15. Thereafter, in Para 43 the Hon'ble Delhi High Court refers to another judgment of the Hon'ble Supreme Court in the case of Rajasthan Rajya Vidyut Prasaran Vs. Anil Kanwariya: (2021) 10 SCC 136 and observes that failure to disclose about criminal antecedents will justify termination by observing the principles laid down by the Hon'ble Supreme Court, which reads as under:-

“43. Right here, it would be appropriate to make reference to one judgment of Supreme Court i.e., Rajasthan Rajya Vidyut Prasaran vs. Anil Kanwaria: (2021) 10 SCC 136. Therein, the petitioner was terminated on account of his failure to disclose about his criminal antecedents. While justifying such termination, it was observed that the key issue in such type of matters was neither the triviality of the matter or subsequent acquittal but was of credibility and trustworthiness of such employee. Supreme Court, in para 14 of the judgment, observed as under:-

“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 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 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.

(Emphasis supplied)”

16. Thereafter in Para 44, the Hon'ble Division Bench of the Delhi High Court observed that strict obedience towards such types of disclosures by a person seeking employment in disciplined force should be adhered to and there is no room for one who endeavours to seek employment by concealing material fact about his criminal antecedents.

17. Similarly, in the case of *Dilip Kumar Mallick (Supra)* in the matter of concealment of fact by an employee of the Central Reserve Police Force (CRPF), the Hon'ble Supreme

Court again considered the issue in the backdrop in the law laid down in case of *Avtar Singh (Supra)* and in Para 11, 12 and 16 interfered with the judgments rendered by a Division Bench of High Court of Orissa showing sympathy and leniency in the matter of imposing a lesser punishment to a member of the Police Force.

18. A complete reading of the judgments passed by the Hon'ble Supreme Court and the Hon'ble Delhi High Court clearly shows that suppression of material fact particularly with regard to pendency of a criminal case cannot be ignored by the employee and disclosures of the same to the employer is a requirement of the rule. Suppression or concealment of material information according to the law laid down has serious consequences particularly when the suppression is by a member of the disciplined force with regard to his criminal antecedents.

19. In this case also, the applicant was enrolled into the Indian Army, a disciplined forces and before permitting him to join the employment in the forces it was imperative for the employee, the applicant herein, to have disclosed all material facts before the Competent Authority while filling up his Enrolment Verification Form. It is after disclosing all these facts that the employer would analyze them and take a

decision. The right of the employer to know the antecedents of an employee, if suppressed or concealed has serious consequences as the employer should always have confidence in the matter of granting employment to a person and this confidence depends upon the antecedents of the person concerned who is being employed. If the person who is being employed, at the very initial stage of employment, suppresses material information from employer, particularly, with regard to the pendency of criminal case against him, the confidence of the employer in giving employment to such a person gets adversely affected and, particularly, when the charges are serious in nature. The employer can always take action for discharge or dismissing the employee on account of such suppressions.

20. In the instant case, the applicant admittedly suppressed the pendency of cases against him and is only justifying the same by giving his defence which he proposes to take in the criminal case to say that he has been falsely implicated. This will not exonerate the applicant from the responsibility of concealing or suppressing material facts at the time of enrolment. The applicant should have fairly disclosed all these facts and thereafter it would have been for the employer to take action in the matter in accordance with the

rules. If the facts of the present case and the nature of service to which the applicant has been appointed, i.e., a disciplined uniform force, is taken note of in the backdrop of settled principle of law as laid down by the Hon'ble Supreme as discussed hereinabove, we do not have iota of doubt that in discharging the applicant at the very initial stage of employment on account of facts that have come on the record, no error or illegalities have been committed which warrants interference of this Tribunal and exercise of its Statutory Jurisdiction under Section 14 of the Armed Forces Tribunal Act, 2007.

21. Accordingly, finding no merit in the case advanced by the applicant, the application is dismissed.

22. Pending MA(s), if any, stand closed.

Pronounced in open Court on this 20th day of February, 2026.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[LT GEN C. P. MOHANTY]
MEMBER (A)**

Priya