IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

ON THE 28th OF OCTOBER, 2026

WRIT PETITION No.10238 of 2023

CNR No.: MPHC010800422023

Nandkishore Lilhare

Versus

State of Madhya Pradesh & others

Appearance:

Ms. Ayushi Tiwari – Advocate for the petitioner.

Ms. Shweta Yadav – Deputy Advocate General for the respondents/State.

Reserved on : 18.09.2026

Delivered on : 28.10.2026

ORDER

The petitioner has filed the instant petition questioning the legality, validity and propriety of the *suo motu* revisional show-cause notice dated 21.03.2022 (Annexure P-8) issued by respondent No. 3, the consequential revisional order

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dated 04.04.2022 (Annexure P-10) passed by respondent No. 3 setting aside the appellate reinstatement order dated 14.03.2022 (Annexure P-7) and restoring the order of removal from service dated 24.11.2021 (Annexure P-6), as well as the order dated 04.07.2022 (Annexure P-12) passed by respondent No. 2 dismissing the petitioner's mercy appeal. The petitioner further prays for a writ of mandamus commanding the respondents to reinstate him in service with all consequential benefits.

2. The factual matrix of the present case is that the petitioner, while he was a student pursuing his schooling and graduation in Balaghat between 2000 and 2006, two criminal cases and two connected preventive proceedings were registered against him. First, Crime No. 42/2003 was registered at Police Station Gramin (Navegaon), Balaghat for offences punishable under Sections 341, 294, 323, 506-B and 34 of the Indian Penal Code, 1860 registered as Criminal Case No. 168/2003 before the Judicial Magistrate First Class, Balaghat, in which the petitioner was acquitted in the year 2005. Alongside this FIR, a preventive proceeding bearing Istgasa No. 38/2003 under Sections 107 and 116(3) of the Code of Criminal Procedure, 1973 was filed before the Tehsil Court, Balaghat. Second, Crime No. 282/2006 was registered on 22.08.2006 at Police Station Kotwali, Balaghat on the report of one Rajendra Uikey for offences under Sections 294, 323, 506, 341 and 34 of the IPC arising

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out of a college dispute at a time when the petitioner was the College President. Upon the intervention of college professors, the dispute was amicably resolved and the petitioner was acquitted by the competent court in the year 2008 on the basis of compromise. Alongside this incident, a preventive proceeding bearing Istgasa No. 212/2006 under Sections 107 and 116(3) of the Cr.P.C. was initiated before the Court of the Tehsildar/SDM, Balaghat, which also stood closed.

3. On 10.01.2011, the petitioner submitted an application form for recruitment to the post of Police Constable under the OBC category in the Constable Cadre Recruitment Examination, 2011. In Clauses 19 and 20 of the application form, which asked whether any offence is registered against the applicant or whether he has been arrested, prosecuted or convicted by a Court, the petitioner wrote 'NO'. Upon being declared successful in the selection process, the petitioner filled out the prescribed Attestation Form for character verification on 04.03.2011. In Column 12(a) of the Attestation Form which asked whether he had ever been arrested, prosecuted, detained, bound down, fined or convicted, the petitioner answered *'Yes'*. Under the sub-columns of Column 12(a)/(b), he mentioned *'इस्त. क्र. 212/06 धारा 107, 116(3)'* registered at *'थाना ग्रामीण'* and filled *'Nil'* against punishment awarded. He answered

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'Yes' against the query whether he was acquitted and wrote *'Nil'* against whether the acquittal was based on benefit of doubt or withdrawal.

4. By letters dated 04.03.2011, the Superintendent of Police, Balaghat directed the Station House Officers (SHOs) of Police Station Gramin and Police Station Kotwali, Balaghat to verify the petitioner's character and antecedents from 2000 to 2008. The then SHO of Police Station Gramin (Inspector K.N. Tripathi) submitted verification report dated 10.03.2011 certifying that upon examining the Village Crime Notebook Parts 2 and 3 and station records, only Istgasa No. 212/06 under Sections 107, 116(3) Cr.P.C. was registered against the petitioner, the information furnished by the candidate in the form was completely accurate and no other offence was registered or pending against him. Similarly, no adverse criminal record was reported by Police Station Kotwali, Balaghat. Consequently, the Superintendent of Police, Balaghat forwarded a favourable character verification report dated 16.03.2011 to the Assistant Inspector General of Police, Special Branch (Security), Bhopal and after clearance from the Special Branch, PHQ Bhopal vide letter dated 15.04.2011, the petitioner was appointed as Constable No. 17 vide order dated 30.05.2011. The petitioner completed his basic training and served the department continuously for over a decade, earning 119 rewards against a solitary minor censure.

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5. While serving as a Constable, the petitioner participated in the Subedar/Sub-Inspector Cadre Recruitment Examination, 2017 conducted by the Professional Examination Board. He cleared the written test, physical proficiency test and interview, and was selected for the post of Sub-Inspector in the District Police Force under the OBC/Police category. In his Sub-Inspector application and verification forms, the petitioner voluntarily disclosed the complete particulars of both prior criminal cases and preventive proceedings. However, the respondents declared him unfit for appointment as Sub-Inspector on the ground that his acquittal on the basis of compromise did not fall within the category of a clean or honourable acquittal. Aggrieved thereby, the petitioner filed W.P. No. 26058/2018, which was disposed of by this Court on 27.01.2020 directing the respondents to reconsider his case. Upon reconsideration, the respondents again declared him unfit for the post of Sub-Inspector vide order dated 27.06.2020. The petitioner challenged the order dated 27.06.2020 by filing W.P. No. 2059/2021 before this Court.

6. Immediately after the reconsideration of his Sub-Inspector candidature, the Superintendent of Police, Balaghat ordered a Preliminary Enquiry on 22.07.2020 into the petitioner's 2011 Constable character verification. The City Superintendent of Police (CSP), Balaghat submitted a Preliminary Enquiry report dated 27.10.2020 concluding that the petitioner

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had suppressed Crime No. 42/2003 (P.S. Gramin) and Crime No. 282/2006 (P.S. Kotwali) in his 2011 Constable recruitment application and Attestation Form. On that basis, respondent No. 5 (SP, Balaghat) issued a Charge-Sheet dated 18.02.2021 (Annexure P-1) initiating Departmental Enquiry No. 04/2021 on the sole charge that upon his selection as Constable in 2011, the petitioner failed to mention registered criminal cases against him in his Attestation Form, thereby concealing facts and furnishing false information to render himself unfit for government service.

7. The petitioner submitted his reply dated 06.03.2021/12.03.2021 denying any willful suppression. The Sub-Divisional Officer (Police), Waraseoni was appointed as the Enquiry Officer and recorded the statements of 6 prosecution witnesses (Annexure P-2). Following notice dated 07.08.2021 (Annexure P-3), the petitioner submitted his defence statement (Annexure P-4) contending *inter alia* that he had been acquitted in 2005 and 2008 prior to his 2011 recruitment and had disclosed all cases in an affidavit appended to his 2011 Attestation Form. The Enquiry Officer found the charge proved and a show-cause notice dated 30.08.2021 was issued to the petitioner along with the enquiry report. After the petitioner submitted his defence representation (Annexure P-5), a copy of his 2011 Attestation Form and the accompanying affidavit was requisitioned from the Police Headquarters and

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supplied to him on 12.10.2021. Finding that both Column 12 of the Attestation Form and the attached affidavit mentioned only the preventive proceeding under Sections 107/116 Cr.P.C. and did not mention Crime No. 42/2003 and Crime No. 282/2006, respondent No. 5 (SP, Balaghat) relying on Clause 14 of GOP No. 78/97, passed the order dated 24.11.2021 (Annexure P-6) imposing the major punishment of removal from service.

8. The petitioner preferred a departmental appeal (Annexure P-6-A) before respondent No. 4 (Deputy Inspector General of Police, Balaghat Range). Vide order dated 14.03.2022 (Annexure P-7), the Appellate Authority partly allowed the appeal, set aside the punishment of removal from service and directed reinstatement of the petitioner in service. The Appellate Authority substituted the penalty with reduction of pay equal to one annual increment with cumulative effect and treated the intervening period as *"No work No pay"*. Pursuant thereto, the petitioner rejoined his duties as Constable.

9. However, barely seven days later, on 21.03.2022, respondent No. 3 (Additional Director General of Police, Balaghat Zone) took the matter up in *suo motu* revision and issued the impugned show-cause notice (Annexure P-8) stating that he disagreed with the appellate order dated 14.03.2022 and calling upon the petitioner to submit his reply within 7 days. Despite the

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petitioner's detailed representation (Annexure P-9) praying for a lenient and sympathetic view, respondent No. 3 passed the impugned order dated 04.04.2022 (Annexure P-10) setting aside the DIG's appellate order dated 14.03.2022 and restoring the SP's removal order dated 24.11.2021. The petitioner's mercy appeal dated 20.04.2022 (Annexure P-11) was subsequently rejected by respondent No. 2 (DGP, M.P.) vide the impugned order dated 04.07.2022 (Annexure P-12). Hence, this writ petition.

10. Ld. Counsel for the Petitioner submits that prior to submitting the application for the post of Constable on 10.01.2011 and filling out the Attestation Form on 04.03.2011, the petitioner had already been acquitted by the competent criminal courts as far back as in 2005 (in Crime No. 42/2003, PS Gramin) and in 2008 (in Crime No. 282/2006, PS Kotwali). Since no criminal case was either registered or pending against him on the date of application and he had never been convicted by any court of law, the petitioner, out of a *bona fide* layman's understanding of the legal terminology in Clauses 19 and 20 of the application form, wrote *'No'* without any intention to deceive the department. It is also contended by Ld. Counsel that in the Attestation Form dated 04.03.2011, the petitioner did not make a blanket denial; rather, he truthfully wrote *'Yes'* in Column 12(a) regarding past prosecution/preventive bond and *'Yes'* in sub-column (vi) regarding his

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acquittal, while mentioning Istgasa No. 212/06 under Sections 107, 116(3) Cr.P.C. in the limited space available on the form as all selected candidates were filling out the form for the first time at the SP Office. Furthermore, under Regulation 241 of the M.P. Police Regulations, once an individual is acquitted by a criminal court, he cannot be subjected to departmental punishment on the same count.

11. The Ld. Counsel further submits that during the 2011 character verification, both local police stations (PS Gramin and PS Kotwali) verified their crime registers and sent official reports to the SP Balaghat stating that apart from Istgasa No. 212/06, no criminal offence was registered against the petitioner. In the departmental enquiry, Prosecution Witness No. 1 (Acting Inspector Premlal Shivvanshi, District Special Branch) categorically admitted in cross-examination in question No. 4 that there was no fault on the part of the petitioner if PS Gramin and PS Kotwali did not mention the past cases in their 2011 verification reports. Similarly, PW-6 (CSP Karnik Shrivastava, Preliminary Enquiry Officer) admitted in cross-examination that the offences of 2003 and 2006 were not grave offences and therefore did not even find mention in the CSP's crime digest. It is thus submitted that the offences were even otherwise trivial in nature and the petitioner was acquitted.

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12. It is further submitted that the initiation of disciplinary proceedings after an inordinate delay of 10 years and the hasty *suo motu* revision initiated within 7 days of the DIG's reinstatement order dated 14.03.2022 are vitiated by malice in law and fact. Because the petitioner had been selected on merits for the post of Sub-Inspector in 2017 where he had disclosed both past cases and had approached this Court in W.P. No. 26058/2018 and W.P. No. 2059/2021 challenging the rejection of his SI candidature, the respondents engineered his termination from the feeder post of Constable to render W.P. No. 2059/2021 infructuous, immediately filing their return in W.P. No. 2059/2021 on 31.03.2022 citing the *suo motu* revision notice.

13. The Ld. Counsel for the petitioner has placed strong reliance upon the decision of this Court in ***Kailash Chandra Sirvi v. State of M.P.*, 2016 (4) MPLJ 370** and the recent judgment of the Hon'ble Supreme Court in ***Ravindra Kumar v. State of Uttar Pradesh and others*, (2024) 5 SCC 264**. On the strength of these judgments, Ld. Counsel submits that an acquittal wipes out the crime altogether and that an employer cannot mechanically terminate an employee for non-disclosure of an old, concluded trivial criminal case without objectively considering his youth at the time of the incident, the nature of the offences, his prior acquittal and his unblemished 10 year service record comprising 119 rewards.

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14. *Per contra*, Ld. Counsel appearing for the respondents/State has supported the impugned orders and opposed the writ petition on the ground that in terms of Clause 14 of GOP No. 78/97 (updated on 04.06.2005) as well as the explicit warning printed at the top of the Attestation Form, every candidate selected in the Police Department is bound to furnish true and complete information regarding his character and antecedents. If a candidate suppresses any material fact or furnishes false information in the verification form, he is rendered unfit for service and if such suppression comes to light after appointment, his services are liable to be terminated. It is further averred that a perusal of the petitioner's Attestation Form and the affidavit requisitioned from Police Headquarters establishes that while the petitioner mentioned the preventive proceeding under Sections 107/116 Cr.P.C. (Istgasa No. 212/06), he suppressed the factum of registration of two criminal cases against him, namely Crime No. 42/2003 and Crime No. 282/2006. Even though the petitioner had been acquitted in those cases, the acquittal in Crime No. 282/2006 was based on a compromise and was not a clean or honourable acquittal. Had he disclosed those cases in Column 12, they would have been treated as involving moral turpitude rendering him unfit for police service.

15. It is also contended by the Ld. Counsel for the State that a full-fledged departmental enquiry was conducted strictly in accordance with the

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principles of natural justice. The petitioner was afforded full opportunity to cross-examine the prosecution witnesses, inspect the requisitioned Attestation Form and affidavit and submit his defence statements before both the Enquiry Officer and the Disciplinary Authority. When respondent No. 4 partly allowed the petitioner's appeal on 14.03.2022 by modifying the punishment of removal to stoppage of one annual increment with cumulative effect, the petitioner did not challenge the order dated 14.03.2022 before any higher forum which demonstrates that the petitioner was fully satisfied with and accepted the finding of guilt recorded in the departmental enquiry.

16. It is thus submitted that the respondent No. 3 (ADGP, Balaghat Zone), being dissatisfied with the inadequacy of the modified punishment imposed by the DIG in a matter involving recruitment through suppression of material facts, lawfully exercised his *suo motu* revisional jurisdiction, issued a show-cause notice dated 21.03.2022, considered the petitioner's reply and passed a well-reasoned order dated 04.04.2022 restoring the punishment of removal from service, which was rightly affirmed by the DGP on 04.07.2022. It is submitted by Ld. Counsel that retaining a person who was involved in criminal cases and secured appointment by suppression in a uniformed police force would send an adverse message to society.

17. Heard the respective Counsel at length and perused the record.

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18. The core questions that arise for consideration before this Court are:-

i. Whether the respondents were justified in treating the petitioner's prior criminal cases which had already culminated in acquittals in 2005 and 2008 as a bar to his suitability in the police force?

ii. Whether the omission by the petitioner to specifically enumerate Crime No. 42/2003 and Crime No. 282/2006 in his 2011 Constable Attestation Form while answering "Yes" to prosecution/acquittal and mentioning Istgasa No. 212/06 warranted the extreme penalty of removal from service after 10 years of blemish-free service; and

iii. Whether the impugned *suo motu* revisional order dated 04.04.2022 (Annexure P-10) and appellate order dated 04.07.2022 (Annexure P-12) satisfy the touchstone of non-arbitrariness and proportionality laid down by the Hon'ble Supreme Court?

19. Before examining the charge of non-disclosure in the 2011 Constable recruitment form, it is necessary to advert to the backdrop in which the present controversy erupted after a lapse of nearly ten years. The petitioner was appointed as a Constable on 30.05.2011 after due verification by both concerned police stations and the Special Branch, Bhopal. For nearly a decade, no question was ever raised regarding his 2011 Attestation Form. The record reveals that when the petitioner participated as an in-service candidate in the

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Sub-Inspector Recruitment Examination, 2017 and was selected on merit, he candidly disclosed the complete details of both Crime No. 42/2003, Crime No. 282/2006 and the preventive proceedings in his Sub-Inspector application form. It was only when the respondents rejected his Sub-Inspector candidature on the ground that his compromise acquittal was not an honourable acquittal and the petitioner assailed that rejection before this Court in W.P. No. 26058/2018 and subsequently in W.P. No. 2059/2021, that the respondents initiated the Preliminary Enquiry on 22.07.2020 to reopen his 2011 Constable recruitment.

20. Both in rejecting his Sub-Inspector candidature and in the impugned removal order dated 24.11.2021 (Annexure P-6) as well as the State's Reply before this Court, the respondents have taken the stand that the petitioner's acquittal based on compromise does not amount to a clean or honourable acquittal and that the offences under Sections 294, 323, 341, 506-B/34 IPC involved moral turpitude rendering him unfit for the police force.

21. This very contention has been authoritatively repelled by a coordinate Bench of this Court in ***Kailash Chandra Sirvi v. State of M.P. and others*, 2016 (4) MPLJ 370**. In ***Kailash Chandra Sirvi (supra)***, the petitioner was appointed as a Police Constable in 2007 and subsequently selected for the post of Sub-Inspector in the 2013 examination. Having been prosecuted and

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acquitted for an offence under Section 498-A of the IPC, the Screening Committee declared him unfit for the post of Sub-Inspector on the ground that his acquittal was not on merits and involved moral turpitude. Allowing the writ petition and directing his appointment as Sub-Inspector, this Court held that once an accused is acquitted, the entire crime registered against him stands wiped off and underscored the anomaly of declaring a serving Constable unfit for the post of Sub-Inspector:

> *"**10.** The stand of the State Government that the petitioner is not fit to serve the police department as Sub Inspector seems to be ridiculous. The petitioner is already a member of police force and if he can serve the police department on the post of Constable, he can very well serve on post of Sub Inspector of Police in the police department.*
>
> ***11.** In the considered opinion of this Court an acquittal is an acquittal. There is no such distinction between acquittal on merits and acquittal on the basis of benefits of doubt."*
>
> *[Emphasis Supplied]*

22. Furthermore, in ***Kailash Chandra Sirvi (supra)***, this Court extensively relied upon the decisions in ***Manish Verma v. State of M.P.*, W.P. No. 3560/2014**, affirmed by the Division Bench in **W.A. No. 73/2015** where the case had been compromised and upheld by the Hon'ble Supreme Court by dismissing SLP (C) No. 592/2015 on 18.01.2016. This Court further relied on ***Rakesh Sharma v. State of M.P.*, W.P. No. 9913/2012**; ***Smt. Panna Mehta v. State of M.P.*, 2003 (1) M.P.L.J. 370**; ***Pushpendra Mishra v. State of M.P.*,**

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2015 MPLJ Online 1 and the judgment of the Hon'ble Supreme Court in ***Joginder Singh v. Union Territory of Chandigarh*, (2015) 2 SCC 377**. In ***Pushpendra Mishra (supra)***, quoted with approval in paragraph No. 17 of ***Kailash Chandra Sirvi (supra)*,** this Court specifically distinguished ***State of M.P. v. Parvez Khan*** on the ground that petty quarrels involving minor IPC sections such as Sections 323, 294, 506-B/34 IPC cannot be equated with heinous offences like dacoity under Sections 394/395 IPC and relied upon ***Commissioner of Police v. Sandeep Kumar,* Civil Appeal no. 1430/2007** to hold that minor indiscretions committed by young people ought to be condoned rather than branding them as criminals for the rest of their lives. Paragraph No. 17 of ***Kailash Chandra Sirvi (supra)*** states as:-

> *"**17.** Learned counsel for the petitioner has placed reliance upon a judgment delivered by this Court in the case of **Pushpendra Mishra v. State of M.P.** in **Writ Petition No. 5795/2015** decided on 19-8-2015 **[2015 MPLJ Online 1]**. The learned Single Judge in the aforesaid judgment has held as under:*
>
> *"The authority has rejected the claim of the petitioner for appointment to the post of Constable on the ground that a criminal case was registered against the petitioner. However, authority did not consider the merit of the criminal case. The authority has also not taken into consideration the fact that a counter case was also registered against the complainant party. The petitioner and complainant party are neighbour. The offences are minor in nature. The trial Court already observed that the story put-forth by the prosecution is suspicious. It is a fact that a person who has criminal antecedents cannot be*

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appointed in the police department. However, it has also to be taken into consideration that whether a person was falsely implicated in the case or not. In certain circumstances, there is a possibility that a person may have been falsely implicated in the case. The judgment relied on by the learned PL State of M.P. v. Parvez Khan (supra) is distinguishable on facts because in the aforesaid judgment the person was tried in two criminal cases. In one case he was prosecuted for commission of offences under sections 323, 324, 325, 294, 506-B/34 of Penal Code, 1860 and other case under sections 452, 394, 395 of Penal Code, 1860. Certainly commission of offences under sections 394, 395 of Penal Code, 1860 is serious offence. The Supreme Court in the matter of ***State of W.B. v. S.K. Nazrul Islam****, reported* ***in (2011) 10 SCC 184*** *has observed in regard to cancellation of appointment of a Constable on the ground that he had submitted false information to the effect that criminal case was registered against him or not as under:*

"Surely, the authorities entrusted with the responsibility of appointing constables were under duty to verify the antecedents of a candidate to find out whether he is suitable for the post of constable and so long as the candidate has not been acquitted in the criminal case of the charges under sections 148/323/380/427/596, Penal Code, 1860, he cannot possibly be held to be suitable for appointment to the post of constable."

The Supreme Court further observed in the matter of ***Commissioner of Police v. Sandeep Kumar*** *passed in* ***Civil Appeal No. 1430/2007****, as under:*

"When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often been condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives."

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Although the matter has been referred by the Supreme Court to larger Bench but in my opinion, the observations made in the aforesaid case by the Court are relevant to decide the controversy involved in this case.

The Supreme Court in the matter of ***Pawan Kumar v. State of Haryana****, reported in* ***(1996) 4 SCC 17*** *has observed as under:*

"Before concluding this judgment we hereby draw attention of the Parliament to step in and perceive the large many cases which per law and public policy are tried summarily, involving thousands and thousands of people through out the country appearing before summary Courts and paying small amounts of fine, more often than not, as a measure of plea-bargaining. Foremost along them being traffic, municipal and other petty offences under the Penal Code, 1860, mostly committed by the young and/or the inexperienced. The cruel result of a conviction of that kind and a fine of payment of a paltry sum on plea-bargaining is the end of the career, future or present, as the case may be, of that young and/or inexperienced person, putting a blast to his life and his dreams. Life is too precious to be staked over a petty incident like this. Immediate remedial measures are therefore necessary in raising the toleration limits with regard to petty offences especially when tried summarily. Provision need be made that punishment of fine upto a certain limit, say upto Rs. 2000/- or so, on a summary/ordinary conviction shall not be treated as conviction at all for any purpose and all the more for entry into and retention in government service. This can brook no delay, whatsoever."

From the observation made by the Supreme Court in the aforesaid cases, it is clear that life of the young person to get the job could not be jeopardise merely on the ground that a criminal case was registered against him.

In the present case the petitioner has been acquitted from the offence after trial. The trial Court specifically observed that false implication of the petitioner in the case cannot be not ruled out. As per facts of the criminal case, in which the petitioner was prosecuted there was a quarrel between

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> *the parties and thereafter FIR was lodged. A counter case was also lodged against the complainant party.*
> *Regulation 64 of Madhya Pradesh Police reads as under:*
> ***64. General Condition of Service.***— ……..
> * * *
> *From the facts of the case, conclusion cannot be drawn that the petitioner was not suitable candidate to be appointed in police service.*
> *In my opinion, the authority did not consider the case of the petitioner in proper perspective and rejected the candidature of the petitioner only on the ground that the petitioner was tried for commission of offence. This approach of the authority is not proper.*
> *Consequently, the petition filed by the petitioner is allowed. The impugned order dated 24-3-2015, (Ann. P-5) is hereby quashed. It is ordered that the petitioner be given appointment on the post of Subedar, Sub-Inspector cadre and Platoon Commander in pursuance to his selection within a period of four weeks from the date of receipt or copy of this order. The petitioner shall not be eligible to receive arrears of salary but he shall be entitled to get benefit of seniority and other benefits from the date of his initial appointment on which date other persons were appointed in pursuance to same selection to the post of Subedar, Sub-Inspector cadre and Platoon Commander.*
> *No order as to costs."*
>
> *[Emphasis Supplied]*

23. Hence, tested on the anvil of ***Kailash Chandra Sirvi (supra)***, the foundational premise of the respondents that the petitioner's acquittals in 2005 and 2008 in petty IPC offences Sections 294, 323, 341, 506-B/34 IPC involved moral turpitude or rendered him inherently unfit for police service is wholly unsustainable in law.

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24. Now, coming to the principal ground on which the impugned removal orders rest, namely, that the petitioner failed to mention Crime No. 42/2003 and Crime No. 282/2006 in his 2011 Constable application and Attestation Form, the law governing non-disclosure of past criminal cases in verification forms has been comprehensively expounded by the Hon'ble Supreme Court in ***Ravindra Kumar v. State of Uttar Pradesh and others*****, (2024) 5 SCC 264.**

25. In ***Ravindra Kumar (supra)***, the appellant therein had applied for the post of Constable, was subsequently implicated in a criminal case under Sections 324, 352 and 504 IPC and was acquitted prior to filing his character verification affidavit when witnesses turned hostile and a compromise memo was filed in respect of Section 504 IPC. Thereafter, in his verification affidavit, the appellant wrote 'No' and 'Zero' against specific columns asking whether any criminal case had ever been registered against him or whether he had been acquitted or discharged in any case. Despite a favourable verification report from the local police station and the Superintendent of Police certifying his character as good, his selection was cancelled for filing a false affidavit and suppressing the criminal case. The Hon'ble Supreme Court posed the precise legal issue as follows:

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> *"**1.** The vexed question is back again. Is it a hard-and-fast and a cut-and-dried rule that, in all circumstances, non-disclosure of a criminal case (in which the candidate is acquitted) in the verification form is fatal for the candidate's employment? We think not and it ought not to be so too. Fortunately, we have a judicial chorus supporting our view. Each case will turn on the special facts and circumstances. We have endeavoured to analyse the applicable precedents and have followed those line of cases, which have a striking similarity to the facts at hand."*
>
> *[Emphasis Supplied]*

26. Analyzing the three Judge Bench decision in ***Avtar Singh v. Union of India*, (2016) 8 SCC 471** (specifically Paragraphs 34, 35, 36, and 38.1 to 38.11), along with ***Commissioner of Police v. Sandeep Kumar*, (2011) 4 SCC 644**; ***Ram Kumar v. State of U.P.*, (2011) 14 SCC 709**; ***Pawan Kumar v. Union of India*, (2023) 12 SCC 317**; ***Mohd. Imran v. State of Maharashtra*, (2019) 17 SCC 696** and ***Satish Chandra Yadav v. Union of India*, (2023) 7 SCC 536**, the Hon'ble Supreme Court in ***Ravindra Kumar (supra)*** reiterated the governing principles:-

i. First, as held in Para 35 of ***Avtar Singh (supra)***, Suppression of material information presupposes that what is suppressed that matters not every technical or trivial matter. It has been observed that 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

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of power has to be in reasonable manner with objectivity having due regard to facts of cases.

ii. Second, as held in Para 36 and Para 38.4.1 of ***Avtar Singh (supra)***, for lower posts such as Constable, the nature of the post, nature of duties and impact of suppression on suitability must be objectively considered and in a trivial/petty case which if disclosed would not have rendered an incumbent unfit for the post in question, the employer may condone the lapse.

iii. Third, as laid down in ***Pawan Kumar v. Union of India (supra)***, by mere suppression of material/false information regardless of the fact whether there is a conviction or acquittal has been recorded, the employee/recruit is not to be discharged/terminated axiomatically from service just by a stroke of pen.

iv. Fourth, in Paragraph 32 and Paragraph 34 of ***Ravindra Kumar (supra)***, the Hon'ble Supreme Court crystallized the mandatory factors that must enter the judicial verdict in adjudging suitability and relief:-

> *"**32.** The nature of the office, the timing and nature of the criminal case; the overall consideration of the judgment of acquittal; the nature of the query in the application/verification form; the contents of the character verification reports; the socio-economic strata*

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> *of the individual applying; the other antecedents of the candidate; the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered.*
>
> * * *
>
> ***34.*** *On the facts of the case and in the backdrop of the special circumstances set out hereinabove, where does the non-disclosure of the unfortunate criminal case, (which too ended in acquittal), stand in the scheme of things? In our opinion on the peculiar facts of the case, we do not think it can be deemed fatal for the appellant. Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario."*
>
> *[Emphasis Supplied]*

27. When the facts of the instant case are examined on the objective touchstone of the eight parameters enunciated by the Hon'ble Supreme Court in Paragraph 32 of ***Ravindra Kumar (supra)***, several compelling features emerge.

28. The petitioner hails from a small village and belongs to the OBC category. Given his date of birth of 10.09.1985, he was merely 17 to 18 years old when Crime No. 42/2003 was registered in early 2003 and 20 years old when Crime No. 282/2006 was registered in August, 2006 during a college

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dispute while he was serving as College President. As observed by the Supreme Court in ***Sandeep Kumar (supra)*** and reaffirmed in ***Ravindra Kumar (supra)***, minor indiscretions at such a young age cannot be used to brand a youth as a criminal for the rest of his life or become an albatross around his neck.

29. Furthermore, both cases involved minor, non-heinous offences under Sections 294, 323, 341 and 506-B/34 of the IPC. Indeed, Prosecution Witness No. 6 (CSP Karnik Shrivastava) who conducted the Preliminary Enquiry, admitted in his cross-examination that the offences registered against the petitioner in 2003 and 2006 were not grave offences and for that reason, were not even entered in the CSP office's Digest Register. It is not out of place to note that the petitioner was acquitted in Crime No. 42/2003 in 2005 and in Crime No. 282/2006 in 2008, i.e., six years and three years, respectively, before the petitioner applied for the post of Constable on 10.01.2011. On the date of his application, i.e., 10.01.2011 and Attestation Form, i.e., 04.03.2011, not a single criminal case was pending against him in any police station or court of law.

30. Unlike cases of total, brazen concealment, in Column 12(a) of the Attestation Form dated 04.03.2011, the petitioner explicitly wrote *'Yes'*, thereby, putting the scrutinizing authority on notice that he had been subjected

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to legal/preventive proceedings. The petitioner further mentioned Istgasa No. 212/06 u/s 107, 116(3) Cr.P.C. which had been registered in 2006 and wrote *'Yes'* against the column asking whether he had been acquitted. The explanation of the petitioner that as a first time rural applicant filling out the form at the SP office, he believed concluded acquittals did not constitute subsisting criminal cases or could not fit in the narrow column space and that he subsequently disclosed every single case upfront when applying for the Sub-Inspector examination in 2017, demonstrates the absence of any deliberate fraudulent design.

31. Just as in ***Ravindra Kumar (supra)***, the local police station conducted an independent character verification in March, 2011 from its official crime registers and Village Crime Notebook Parts 2 and 3 and certified on 10.03.2011 that apart from Istgasa No. 212/06, no criminal case was registered or pending against the petitioner and that he bore good character. This report was endorsed by the Superintendent of Police, Balaghat on 16.03.2011 and accepted by the Special Branch, PHQ Bhopal on 15.04.2011. As admitted by PW-1 (Acting Inspector Premlal Shivvanshi) during cross-examination in the departmental enquiry, the petitioner cannot be blamed for the verification reports submitted by the SHOs of P.S. Gramin and P.S. Kotwali in 2011.

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32. In ***Ravindra Kumar (supra)***, ***Ram Kumar (supra)***, and ***Pawan Kumar (supra)***, the Hon'ble Supreme Court granted relief even to recruits whose candidatures were cancelled at the threshold before or shortly after joining training. The petitioner here stands on a far stronger footing. He was appointed on 30.05.2011, confirmed in service and discharged his duties as a Constable for over 10 years until 24.11.2021 with such dedication and discipline that he was awarded 119 rewards against only one minor censure. Moreover, he proved his merit by clearing the competitive Sub-Inspector examination in 2017. The contention of the respondents that the petitioner is unfit to perform police duty before society is completely belied by the department's own record of rewarding him 119 times over a decade of active police service.

33. A perusal of the sequence of events lends credence to the petitioner's grievance that the disciplinary proceedings and the *suo motu* revision were pursued mechanically and arbitrarily. When respondent No. 5 (SP, Balaghat) removed the petitioner from service on 24.11.2021, the Appellate Authority, i.e., respondent No. 4 (DIG, Balaghat Range) examined the matter in appeal and vide order dated 14.03.2022 (Annexure P-7) took a balanced and proportionate view by setting aside the removal order, reinstating the petitioner in service and imposing a punishment of reduction of pay by one

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annual increment with cumulative effect on the principle of *"No work No pay"*. However, within just seven days of the appellate order, on 21.03.2022, respondent No. 3 (ADGP, Balaghat Zone) initiated a *suo motu* revision (Annexure P-8) and on 04.04.2022 (Annexure P-10) mechanically restored the extreme penalty of removal from service purely on a rigid reading of GOP No. 78/97 without adverting to the parameters of ***Avtar Singh (supra)*** or the petitioner's 10 years of meritorious service.

34. The argument raised by the respondents that because the petitioner did not challenge the DIG's appellate order dated 14.03.2022 before a higher authority, he must be deemed to have accepted his guilt and therefore, cannot assail his subsequent revisional removal is wholly misconceived. An employee who accepts a reduced penalty of stoppage of one increment under an appellate reinstatement order in order to secure his livelihood and return to duty does not forfeit his right under Article 226 of the Constitution to challenge a subsequent *suo motu* revisional order that takes away his very employment.

35. As held by the Hon'ble Supreme Court in ***Ram Kumar v. State of U.P. (supra)***, ***Pawan Kumar v. Union of India (supra)*** and ***Ravindra Kumar v. State of U.P. (supra)***, government instructions or recruitment clauses providing for cancellation or termination upon non-disclosure cannot be

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applied mechanically by a stroke of pen divorced from the duty of the authority to objectively assess whether the nature of the concluded criminal case and the alleged omission truly render the employee unsuitable for continuing in service. In the facts of the present case, where the two minor cases occurred when the petitioner was a teenager/college student, both ended in acquittal years prior to his 2011 recruitment, the petitioner answered *'Yes'* in Column 12(a) of the Attestation Form while mentioning the connected preventive case, the local police stations cleared his verification in 2011 and he rendered over 10 years of commendable service earning 119 rewards, the impugned *suo motu* revisional notice dated 21.03.2022 (Annexure P-8), the revisional removal order dated 04.04.2022 (Annexure P-10) and the DGP's order dated 04.07.2022 (Annexure P-12) are manifestly arbitrary, disproportionate and unsustainable in the eyes of law.

36. Consequently, this writ petition succeeds with the following direction:-

i. The impugned *suo motu* revisional show-cause notice dated 21.03.2022 (Annexure P-8) issued by respondent No. 3 (Additional Director General of Police, Balaghat Zone, Balaghat), the impugned revisional termination order dated 04.04.2022 (Annexure P-10) passed by respondent No. 3 and the impugned order dated

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04.07.2022 (Annexure P-12) passed by respondent No. 2 (Director General of Police, Madhya Pradesh) are hereby quashed and set aside.

ii. The respondents are directed to reinstate the petitioner in service forthwith on the post of Constable.

iii. While the petitioner shall not be entitled to actual arrears of back wages for the period during which he remained out of service, he shall be entitled to continuity of service and all notional and consequential benefits, including notional fixation of pay, increments and seniority.

37. The writ petition stands **allowed**.

38. There shall be no order as to costs.

(VIVEK KUMAR SINGH)
JUDGE

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