



RESEARCH QUESTION

"How does a pending FIR or closed criminal case affect government job candidature, passport issuance, and visa applications in India, what disclosure rules apply, and what have courts held about acquitted or discharged candidates?"

Effect of Pending FIRs, Closed Criminal Cases, and Past Acquittals on Public Employment, Passport Issuance, and Visa Applications in India

TL;DR

The Supreme Court of India in *Satish Chandra Yadav v. Union of India* (2022) established that public employment candidature can be rejected for suppression of criminal history, even if the candidate is later acquitted, as the employer retains the absolute right to evaluate character and suitability. A pending FIR is not a statutory bar to passport renewal because criminal proceedings are not deemed "pending" under Section 6(2)(f) of the Passports Act, 1967 until a court takes judicial cognizance, though a pending trial requires the applicant to secure a trial court's travel permission for a short-validity passport. Visa applications are highly subject to police verification and consular discretion, where any undisclosed past record or active trial almost certainly leads to rejection on character grounds.

VERIFIED CASES	STATUTES	LATEST RULING
25	2	2024
17 High Courts · 8 SC		High Court of Madhya Pradesh

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Strict Obligation of Truthful Disclosure

Every applicant is duty-bound to provide correct details regarding past arrests, pending cases, or convictions, as deliberate non-disclosure is an independent ground for termination, as established in *Union of India v. Dilip Kumar Mallick* (2022). A candidate cannot unilaterally withhold past prosecutions on the ground of a subsequent acquittal if the verification form specifically requires such disclosure, as noted in *Daya Shankar Yadav v. Union of India* (2010).

02 Acquittal is Not an Absolute Right to Employment

An acquittal or discharge does not automatically establish clean antecedents or entitle a candidate to public employment. As ruled in *Union of India v. Methu Meda* (2021), employers are entitled to analyze the nature of the acquittal, and an acquittal based on a benefit of doubt, technical grounds, or hostile witnesses does not constitute an "honourable acquittal." The employer, especially in a disciplined force, has the final right to assess whether the candidate is suitable, as held in *Union Territory, Chandigarh Administration v. Pradeep Kumar* (2018).

03 The Definition of "Pending Proceeding" Under the Passports Act

Section 6(2)(f) of the Passports Act, 1967 only bars passport issuance when "proceedings... are pending before a criminal court." As clarified in *Dangeti Veera Venkata Satya Prasad v. Union of India* (2024), court proceedings only commence when a magistrate judicially takes cognizance of an offense. Therefore, the mere registration of an FIR or an active police investigation where a charge sheet has not yet been filed does not constitute a pending criminal case and cannot be a ground to deny a passport, as held in *Karnam Mahesh Babu v. Union of India* (2023).

04 Avenue for Travel via Short-Validity Passports

Where a criminal trial is actively pending in court, the statutory bar is mitigated by central notifications (such as GSR-570E) that allow for the issuance of a short-validity passport. As noted in *Murali N. v. Union of India* (2024), the applicant must approach the trial court to seek explicit permission to travel abroad. The trial court must evaluate the request on its merits and cannot mechanically reject it due to the pending trial, as held in *Sheeraz Ahmed Shariff v. The Regional Passport Officer* (2024).

05 Specificity of the Verification Form

Suppression cannot be alleged if the candidate's non-disclosure was due to a vague or restrictive question on the attestation form, or because they lacked knowledge of the case. In *State of West Bengal v. Mitul Kumar Jana* (2023), the Court held that if the form only asks for "arrests" or "convictions," omitting a pending trial where no arrest was made does not constitute suppression. Similarly, *Manendra Singh v. Union of India* (2021) established that a candidate cannot be held guilty of active non-disclosure of a pending FIR of which they had no formal notice, arrest, or knowledge.

06 Rule of Proportionality and Non-Arbitrariness

While employers have wide administrative latitude, they must not act arbitrarily or reject candidates in a mechanical, boilerplate manner for trivial omissions. In *Pawan Kumar v. Union of India & Anr.* (2022), the Supreme Court emphasized that trivial or technical non-disclosures of minor, concluded cases should be condoned by employers through a reasonable and objective assessment. This prevents the administrative process from degenerating into arbitrary exclusion, a principle echoed by High Courts in cases like *S. Somasundaram v. The Director General of Police* (2018).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT POSITION

The apex court consistently maintains that public employers, particularly in law enforcement or disciplined forces, must ensure candidates possess "impeccable character and integrity." In *State of Madhya Pradesh v. Bhupendra Yadav* (2023), the Court upheld the rejection of a candidate for a constable post who had been charged under the POCSO Act and acquitted only because the prosecutrix turned hostile, highlighting that the employer's screening committee holds the authority to reject individuals with suspect backgrounds.

HIGH COURT VARIATIONS

High Courts have repeatedly quashed boiler-plate rejection orders passed by recruitment boards that apply a blanket, unthinking refusal to candidates with past acquittals. While the High Court of Madhya Pradesh in *Anil Prasad Choudhary v. State of Madhya Pradesh* (2024) recognized the employer's ultimate vetting power for disciplined forces, the Madras High Court has regularly intervened to mandate a fresh, individualized review where authorities failed to consider the triviality of the offense or the candidate's reformatory potential, as seen in *A. Brabhu Alwar v. The Director General of Police* (2018), *M. Poobalan v. The Director General of Police* (2020), and *N. Sakthivel v. Director General of Police* (2018).

RECENT EVOLUTION

Courts have firmly protected the right to travel by preventing passport officers from utilizing mere police reports or languishing investigations as absolute barriers. In *Anurag Jain v. Union of India* (2024), the court affirmed that a pending trial is not an absolute, permanent bar to passport renewal. This rule has been consistently applied to direct passport authorities to renew passports on a short-validity basis or direct them to process applications where the investigation remains stuck at the FIR stage, as illustrated in *Ritesh Kumar Solanki v. Regional Passport Officer* (2024), *Vivek Anand v. Union of India* (2024), and *Unspecified Petitioner v. Regional Passport Officer* (2023).

UNSETTLED AREAS OR CAVEATS**Post-Application Registrations**

Rejection is occasionally challenged when a criminal case is registered *after* the application is submitted but before character verification. In *State of Rajasthan v. Suryakant* (2021), the court held that a candidate cannot be blamed for non-disclosure if the verification roll did not contain a clear requirement to report post-application events.

Relevance of Probation

While release under the Probation of Offenders Act is aimed at reformation, it does not erase the fact of the offense. In *Ramesh Kumar Meena v. State of Rajasthan* (2023), the court held that the benefit of probation does not strip the employer of its right to evaluate the candidate's criminal antecedents and cancel their selection under applicable service rules.

Intent to Evade Justice

Although passport issuance is a right, courts will deny relief if the candidate faces serious charges and their travel threatens to disrupt judicial proceedings. In *P.K. Selvaraj v. Regional Passport Officer* (2016), the court upheld the impounding of a passport where the applicant faced multiple trials and failed to secure the trial court's permission, illustrating that flight risk and trial disruption remain critical counter-weights.

II. Statutory Provisions 2 PROVISIONS

SECTION 6, PASSPORTS ACT, 1967 — REFUSAL OF PASSPORTS, TRAVEL DOCUMENTS, ETC.

This section outlines the statutory grounds upon which the passport authority must refuse to make endorsements or issue a passport, including cases where criminal proceedings are pending or where the applicant has certain past convictions.

"(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:— (a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India; (b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India; (c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country; (d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest. (2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely :— (a) that the applicant is not a citizen of India; (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India; (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India; (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country; (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years; (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India; (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court" *Cited in:* Murali N. v. Union of India, Karnam Mahesh Babu v. Union of India, Ritesh Kumar Solanki v. Regional Passport Officer, Anurag Jain v. Union of India, Sheeraz Ahmed Shariff v. The Regional Passport Officer, Unspecified Petitioner v. Regional Passport Officer, Dangeti Veera Venkata Satya Prasad v. Union of India, Vivek Anand v. Union of India

SECTION 12, PASSPORTS ACT, 1967 — OFFENCES AND PENALTIES

This section criminalizes the acts of suppressing material information or providing false information to obtain a passport, carrying penalties of imprisonment or a fine.

"Section 12. Offences and penalties\n\n(1) Whoever--\n\n(a) contravenes the provisions of section 3; or\n\n(b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document; or\n\n(c) fails to produce for inspection his passport or travel document (whether issued under this Act or not) when called upon to do so by the prescribed authority; or\n\n(d) knowingly uses a passport or travel document issued to another person; or\n\n(e) knowingly allows another person to use a passport or travel document issued to him,\n\nshall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both." *Cited in: Murali N. v. Union of India, Karnam Mahesh Babu v. Union of India, Ritesh Kumar Solanki v. Regional Passport Officer, Anurag Jain v. Union of India, Sheeraz Ahmed Shariff v. The Regional Passport Officer, Unspecified Petitioner v. Regional Passport Officer, Dangeti Veera Venkata Satya Prasad v. Union of India, Vivek Anand v. Union of India*

III.

Cases Discussed

25 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>Union of India v. Methu Meda</i> ESCR010004782021	SUPREME COURT OF INDIA	2021	Acquittal on benefit of doubt in serious offense does not automatically guarantee public employment.
02	<i>Anil Prasad Choudhary v. State of Madhya Pradesh</i> MPHC010681252023	HIGH COURT OF MADHYA PRADESH	2024	Police force recruitment allows employers complete discretion to evaluate a candidate's criminal antecedents.
03	<i>S. Somasundaram v. The Director General of Police</i> HCMD010628962017	MADRAS HIGH COURT	2018	Authorities cannot reject candidates using mechanical, stereotyped orders without evaluating reformative potential.
04	<i>M. Poobalan v. The Director General of Police</i> HCMA011625612017	MADRAS HIGH COURT	2020	Quashed blanket rejection order for jail warder candidate, requiring objective assessment of acquittal.
05	<i>Union Territory, Chandigarh Administration v. Pradeep Kumar</i> ESCR010003432018	SUPREME COURT OF INDIA	2018	Mere acquittal in criminal cases is not conclusive proof of candidate's overall suitability.
06	<i>State of West Bengal v. Mitul Kumar Jana</i> ESCR010005732023	SUPREME COURT OF INDIA	2023	Non-disclosure of pending case is not suppression if verification form only requests past arrests.
07	<i>Satish Chandra Yadav v. Union of India</i> ESCR010005882022	SUPREME COURT OF INDIA	2022	Deliberate non-disclosure of pending criminal cases in police verification forms justifies service termination.
08	<i>Union of India v. Dilip Kumar Mallick</i> ESCR010002092022	SUPREME COURT OF INDIA	2022	Suppression of active trial in verification roll is serious misconduct justifying termination of services.
09	<i>Murali N. v. Union of India</i> KAHC010165182024	HIGH COURT OF KARNATAKA	2024	Pending court trials do not bar short-validity passports if judicial travel permission is obtained.
10	<i>Manendra Singh v. Union of India</i> UPHC012010402017	ALLAHABAD HIGH COURT	2021	Omission of FIR is not intentional suppression if candidate had no arrest or knowledge.
11	<i>Ritesh Kumar Solanki v. Regional Passport Officer</i> KAHC010459232022	HIGH COURT OF KARNATAKA	2024	Upheld short-validity passport renewal under the Passports Act despite pending trial.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
12	<i>Karnam Mahesh Babu v. Union of India</i> APHC010507562023	HIGH COURT OF ANDHRA PRADESH	2023	Mere registration of an FIR without court cognizance cannot bar passport renewal.
13	<i>A.Brabhu Alwar v. The Director General of Police</i> HCM010654862017	MADRAS HIGH COURT	2018	Remanded jail warder candidate rejection for individualized assessment of past criminal case.
14	<i>Ramesh Kumar Meena v. State of Rajasthan</i> RJHC010824472022	HIGH COURT OF RAJASTHAN	2023	State retains right to reject candidates released under the Probation of Offenders Act.
15	<i>State of Madhya Pradesh v. Bhupendra Yadav</i> ESCR0100072023	SUPREME COURT OF INDIA	2023	Rejection of candidate acquitted of sexual offenses due to hostile witnesses was legally valid.
16	<i>N. Sakthivel v. Director General of Police</i> HCM010631592017	MADRAS HIGH COURT	2018	Quashed stereotyped cancellation order, directing fresh, objective evaluation of the candidate's character.
17	<i>State of Rajasthan v. Suryakant</i> RJHC020575632021	HIGH COURT OF RAJASTHAN	2021	Protected candidate where criminal case was registered post-application and verification form lacked clarity.
18	<i>P.K. Selvaraj v. Regional Passport Officer</i> HCM010819102016	MADRAS HIGH COURT	2016	Passport impounding is justified where pending cases pose real flight or justice-evasion risk.
19	<i>Pawan Kumar v. Union of India & Anr.</i> ESCR010004742022	SUPREME COURT OF INDIA	2022	Discharge of railway constable candidate for technical non-disclosure of trivial, concluded case quashed.
20	<i>Anurag Jain v. Union of India</i> KAHC010054432023	HIGH COURT OF KARNATAKA	2024	Pending trial does not act as a permanent, absolute bar to passport renewal.
21	<i>Sheeraz Ahmed Shariff v. The Regional Passport Officer</i> KAHC010567492023	HIGH COURT OF KARNATAKA	2024	Set aside passport surrender certificate, granting short-validity renewal subject to trial court's order.
22	<i>Daya Shankar Yadav v. Union of India</i> ESCR010002062010	SUPREME COURT OF INDIA	2010	Truthful disclosure of all past prosecutions is mandatory when specifically requested in forms.
23	<i>Unspecified Petitioner v. Regional Passport Officer</i> APHC010189852023	HIGH COURT OF ANDHRA PRADESH	2023	Passport authority must renew passport if criminal case is pending only as an FIR.
24	<i>Dangeti Veera Venkata Satya Prasad v. Union of India</i> APHC010164212024	HIGH COURT OF ANDHRA PRADESH	2024	Criminal court proceedings are not legally pending until the magistrate takes judicial cognizance.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
25	<i>Vivek Anand v. Union of India</i> JKHC020007252023	HIGH COURT OF JAMMU AND KASHMIR	2024	Pendency of an active investigation under an FIR is not a bar to passport.

IV. Case Details 25 CASE FILES

01 Union of India v. Methu Meda

SUPREME COURT OF INDIA • 2021-10-06 • 2021 INSC 623

The respondent, a candidate for the Central Industrial Security Force, was denied appointment due to his past involvement in a criminal case involving kidnapping for ransom, despite being acquitted because prosecution witnesses turned hostile. The Screening Committee deemed him unsuitable for a disciplined force, a decision the High Court initially overturned. The Supreme Court set aside the High Court's orders, ruling that acquittal based on benefit of doubt or hostile witnesses does not constitute an 'honourable acquittal.' The Court affirmed that employers maintain the right to assess a candidate's suitability based on their criminal antecedents and that an acquittal does not automatically entitle a candidate to government employment.

HELD The Supreme Court held that an acquittal arising from witnesses turning hostile cannot be considered an "honourable acquittal." The employer retains the right to assess the candidate's criminal antecedents and overall suitability, particularly for a disciplined force, and cannot be forced to offer employment simply because the candidate was not convicted.

"Therefore, it appears that the Committee was of the view that acquittal of the respondent, in the facts of the present case, cannot be termed as 'honourable acquittal' and the said acquittal may be treated by giving benefit of doubt."

SUPREME COURT OF INDIA • 2021

SOURCE ESCR010004782021

02 Anil Prasad Choudhary v. State of Madhya Pradesh

HIGH COURT OF MADHYA PRADESH • 2024-01-05 • WA/1896/2023

The appellant, who had applied for the position of Police Constable, was denied appointment by the recruitment authorities due to his prior involvement in a criminal case, despite his subsequent acquittal. Although the petitioner argued that he had truthfully disclosed his history and sought parity with other candidates, the court affirmed that the employer holds the sole discretion to assess the suitability and antecedents of candidates for a disciplined force like the police. Relying on Supreme Court precedents, the court held that an acquittal does not automatically entitle a candidate to appointment and that the employer cannot be compelled to hire an individual if they deem them unsuitable based on their criminal background.

HELD The High Court affirmed that even when an employee makes a truthful declaration of a concluded criminal case, the employer cannot be compelled to appoint him. The screening committee's decision on the candidate's fitness remains final, and an acquittal on technical grounds does not restrict this discretion.

"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."

HIGH COURT OF MADHYA PRADESH • 2024

SOURCE MPH010681252023

03 S. Somasundaram v. The Director General of Police

MADRAS HIGH COURT • 2018-01-24 • WP(MD)/20270/2017

The petitioner, a successful candidate for the post of Grade-II Jail Warder, was denied appointment by the Tamil Nadu Uniformed Services Recruitment Board due to his prior involvement in criminal cases, citing relevant service rules. The petitioner challenged this denial. The High Court observed that the respondents passed the rejection orders in a stereotyped manner without applying the guidelines established by the Supreme Court in *Avtar Singh v. Union of India*. Specifically, the authorities failed to consider whether the lapse was trivial or if the reformatory principle should apply. Consequently, the Court set aside the impugned order and remitted the matter to the third respondent for a fresh, individualized assessment of the petitioner's case.

HELD The court held that character verification must be objective and tailored to the nature of the post. Rejection orders must not be passed in a mechanical or stereotyped manner, and the employer must consider the triviality of the offense and the possibility of reform before cancelling a selection.

"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."

MADRAS HIGH COURT • 2018

SOURCE HCMD010628962017

04 M. Poobalan v. The Director General of Police

MADRAS HIGH COURT • 2020-01-07 • WP/30468/2017

The petitioner, a candidate for the post of Grade-II Police Constable, had his selection cancelled due to his prior involvement in a criminal case, for which he had been acquitted. The authorities argued that the candidate failed to disclose his criminal history and that his acquittal was based on the benefit of doubt, rendering him unsuitable for police service. The High Court quashed the cancellation order and directed the Director General of Police to reconsider the petitioner's case afresh. Relying on the Supreme Court's guidelines in *Avtar Singh v. Union of India*, the court mandated that the authorities must evaluate the seriousness of the offense and the candidate's antecedents in an objective, lawful manner before deciding on his suitability for appointment.

HELD The court set aside the cancellation of the petitioner's police candidacy, directing a fresh assessment. The court ruled that even if a criminal case was pending but unknown to the candidate, the appointing authority must objectively evaluate the seriousness of the offense instead of executing a blanket rejection.

"If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime."

MADRAS HIGH COURT • 2020

SOURCE HCMA011625612017

05 Union Territory, Chandigarh Administration v. Pradeep Kumar

SUPREME COURT OF INDIA • 2018-01-08 • 2018 INSC 10

This case concerns the suitability of candidates for recruitment into a disciplined police force who had prior criminal involvements but were subsequently acquitted. The Supreme Court held that acquittal in a criminal case does not automatically entitle a candidate to appointment, nor does it guarantee their suitability for a position requiring impeccable integrity. The Court ruled that it is within the authority of the employer's Screening Committee to evaluate whether an acquittal was 'honourable' or merely due to the benefit of doubt. Because the Committee followed established guidelines and acted without mala fide intent, the Court concluded that its decision to reject the candidates should not be disturbed and that courts should not substitute their own views for such administrative assessments.

HELD The Supreme Court held that acquittal in a criminal case is not conclusive proof of a candidate's suitability. To claim the benefit of the acquittal for a public post, particularly in the police service, the acquittal must be "honourable" rather than based on technical grounds or the benefit of a doubt.

"Unless it is an honourable acquittal, the candidate cannot claim the benefit of the case."

SUPREME COURT OF INDIA • 2018

SOURCE ESCR010003432018

06 State of West Bengal v. Mitul Kumar Jana

SUPREME COURT OF INDIA • 2023-08-22 • 2023 INSC 754

This case concerns the denial of a police constable appointment due to alleged suppression of material information in a verification roll regarding a pending criminal case. The Supreme Court found that the verification form's specific question only requested information about prior arrests, detentions, or convictions, not pending cases. Therefore, the respondent did not commit suppression of material information by omitting the pending matter. Furthermore, the respondent was acquitted of the charges, which were petty offenses unrelated to moral turpitude. The Court held that while the employer retains discretion to evaluate a candidate's suitability post-acquittal, they cannot withhold appointment based on a non-existent suppression of information, and ordered the state to reconsider the candidate for the position.

HELD The Supreme Court held that since the respondent was honourably acquitted and the offenses were not of a heinous nature, there was no impediment to his appointment. Because the verification form failed to ask specifically about pending trials, omitting the pending case was not a deliberate suppression of facts.

"The allegations in the said case were neither of heinous/serious offences, nor related to an offence involving moral turpitude. In the said case, the respondent was honourably acquitted because the prosecution had miserably failed to prove the charges. Hence, in our view, prima-facie there appears no impediment to issue the order of appointment in favour of the respondent."

SUPREME COURT OF INDIA • 2023

SOURCE ESCR010005732023

07 Satish Chandra Yadav v. Union of India

SUPREME COURT OF INDIA • 2022-09-26 • 2022 INSC 1024

The appellants were terminated from service after it was discovered they had suppressed or provided false information regarding pending criminal cases in their employment verification forms. The Court held that for public employment, especially in law enforcement, the suppression of material facts concerning criminal antecedents warrants termination, as it undermines the employer's ability to assess a candidate's suitability and character. The court emphasized that the subsequent acquittal in a criminal case does not automatically entitle a candidate to appointment or justify the suppression of information during the recruitment process. Consequently, the court dismissed the appeals, maintaining that employers are entitled to terminate probationers who fail to provide truthful disclosures.

HELD The Supreme Court held that the subsequent acquittal of a candidate does not cure the defect of deliberate suppression at the stage of application. Where an offense is serious or heinous, an acquittal based on witnesses turning hostile or a technical benefit of doubt cannot override the employer's right to cancel candidature.

"The judgment in Avtar Singh's case (2016) 8 SCC 471 on the relevant parameter extracted aforesaid clearly stipulates that where in respect of a heinous or serious nature of crime the acquittal is based on a benefit of reasonable doubt, that cannot make the candidate eligible."

SUPREME COURT OF INDIA • 2022

SOURCE ESCR010005882022

08 Union of India v. Dilip Kumar Mallick

SUPREME COURT OF INDIA • 2022-04-05 • 2022 INSC 1301

The respondent, a member of the Central Reserve Police Force, was removed from service for suppressing the existence of a pending criminal case when filling out his employment verification roll. While the High Court upheld the finding of misconduct, it directed the employer to impose a lesser punishment than removal, viewing the termination as too harsh. On appeal, the Supreme Court reversed this decision, holding that since the respondent knowingly suppressed material information regarding his criminal background, the employer's choice of punishment was justified. The Court ruled that judicial interference with a disciplinary authority's decision on the quantum of punishment is not warranted in cases of proven suppression of material facts.

HELD The Court ruled that non-disclosure of material information is equal in gravity to submitting false information. If an employee is found to have suppressed an active prosecution, the employer is fully justified in terminating the services, and the court cannot interfere on grounds of sympathy or order a lesser punishment.

"On the contrary, as indicated above, a non-disclosure of material information itself could be a ground for cancellation of employment or termination of services."

SUPREME COURT OF INDIA • 2022

SOURCE ESCR010002092022

09 Murali N. v. Union of India

HIGH COURT OF KARNATAKA • 2024-04-16 • WP/9506/2024

The petitioner sought the issuance of a passport despite the pendency of a criminal case against him. The Regional Passport Officer had refused the application citing Section 6(2)(f) of the Passports Act, 1967, which allows for the refusal of a passport if criminal proceedings are pending. The court noted that while Section 6(2)(f) provides grounds for refusal, it does not mandate an absolute bar in all circumstances. Following previous rulings, the court held that the passport authority has the discretion to issue a passport for a shorter duration or subject to specific conditions despite pending criminal proceedings, provided the applicant informs the relevant court and obtains permission for travel.

HELD The High Court held that the passport authority cannot dilute the statutory bar of Section 6(2)(f) of the Passports Act, 1967 when criminal proceedings are pending. However, the applicant may apply to the concerned trial court to seek permission for a short-validity passport as governed by Notification GSR-570(E).

“As long as Section 6(2)(f) stares at any application, be it for fresh, renewal or re-issuance, such application cannot be directed to be granted diluting the rigor of Section 6(2)(f).”

HIGH COURT OF KARNATAKA • 2024

SOURCE KAHC010165182024

10 Manendra Singh v. Union of India

ALLAHABAD HIGH COURT • 2021-12-15 • WRIA/45098/2017

The petitioner sought to quash a discharge order from the Railway Protection Special Force, which was based on the alleged suppression of material facts in his attestation form. The authorities claimed the petitioner failed to disclose a registered criminal case. The court observed that the attestation form only required disclosure of arrests, prosecutions, convictions, or cases pending in a court of law. It found no evidence that the petitioner was aware of the pending case or that he had been formally prosecuted or arrested at the time of filing. Relying on the principles regarding non-disclosure in attestation forms, the court concluded that the petitioner's failure to mention the FIR did not constitute intentional suppression of material facts.

HELD The High Court held that a candidate's failure to mention a registered FIR does not amount to suppression when the attestation form specifically asks for "pending cases in a court of law." Because a mere FIR does not mean a case is pending in court, the candidate answered truthfully.

“The mere existence of a FIR did not, therefore, oblige the petitioner to answer either of these questions in paragraph 12 in the affirmative.”

ALLAHABAD HIGH COURT • 2021

SOURCE UPHC012010402017

11 Ritesh Kumar Solanki v. Regional Passport Officer

HIGH COURT OF KARNATAKA • 2024-04-23 • WP/20070/2022

The petitioner filed a writ petition seeking a direction to the passport authorities to renew his passport for a period of ten years. The petitioner contended that his case was covered by a previous decision of a coordinate bench of the High Court of Karnataka regarding passport renewal procedures under the Passports Act, 1967. The Court, following the precedent set in the earlier order, allowed the writ petition. It directed the passport authorities to consider the petitioner's application for renewal of his passport in accordance with the relevant provisions of the Passports Act, 1967, and the rules framed thereunder, maintaining consistency with the established legal position.

HELD The High Court rejected the petitioner's prayer for a regular 10-year passport renewal due to pending criminal proceedings. It directed the petitioner to approach the trial court to obtain a short-validity passport under the requirements of Notification GSR-570E.

"The petitioner shall approach the concerned Court seeking issuance of a short validity passport and the concerned Court shall consider such application strictly in consonance with the Act, Notification No.GSR-570E dated 25.08.1993 and its requirements."

HIGH COURT OF KARNATAKA • 2024

SOURCE KAHC010459232022

12 Karnam Mahesh Babu v. Union of India

HIGH COURT OF ANDHRA PRADESH • 2023-10-13 • WP/26143/2023

The petitioner challenged the refusal of passport authorities to renew his passport, which was denied on the grounds of a pending criminal case. The court noted that under Section 6(2)(f) of the Passports Act, 1967, passport issuance can only be refused if criminal proceedings are actually pending before a court. Relying on established precedent, the court held that the mere registration of an FIR or a pending investigation where a charge sheet has not yet been filed does not constitute pending criminal proceedings. Consequently, the court directed the authorities to renew the passport, provided all other requirements were met, excluding the objection related to the pending criminal case.

HELD The High Court held that the restriction under Section 6(2)(f) of the Passports Act is only attracted once court proceedings commence after a magistrate takes cognizance of the charges. A pending FIR under police investigation does not constitute a pending trial, so passport renewal cannot be refused on that ground.

"registration of a crime would not amount to pendency of criminal proceeding, which empowers the passport authorities to withhold issuance or renewal of passport."

HIGH COURT OF ANDHRA PRADESH • 2023

SOURCE APHC010507562023

13 A.Brabhu Alwar v. The Director General of Police

MADRAS HIGH COURT • 2018-01-11 • WP(MD)/23875/2017

The petitioner, a successful candidate for the post of Grade-II Jail Warder, was denied appointment by the Tamil Nadu Uniformed Service Recruitment Board due to his involvement in past criminal cases, citing relevant service rules. The High Court observed that the authorities had passed the order in a stereotypical manner without applying the objective criteria established by the Supreme Court in Avtar Singh v. Union of India. The court emphasized that authorities must consider the nature of the offense, whether there was deliberate suppression, and potential for reformation before denying employment. Consequently, the court set aside the impugned order and remanded the matter to the fourth respondent for a fresh, reasoned decision within twelve weeks.

HELD The High Court ruled that a candidate has a constitutional right not to be dealt with arbitrarily by recruitment authorities. Rejection orders must be made with objectivity and reason, taking into account individual circumstances and reformatory factors rather than relying on automated service rule applications.

“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.”

MADRAS HIGH COURT • 2018

SOURCE HCMD010654862017

14 Ramesh Kumar Meena v. State of Rajasthan

HIGH COURT OF RAJASTHAN • 2023-11-21 • CW/17972/2022

The petitioner, selected for the post of Patwari, had his appointment cancelled by the District Collector following a police verification report revealing prior criminal convictions under the Indian Penal Code. Although the petitioner was granted the benefit of probation, the respondents maintained that his criminal antecedents rendered him ineligible for government service pursuant to state government circulars and service rules. Relying on established precedents, the Court held that the employer retains the right to assess a candidate's suitability based on their criminal background and government instructions, regardless of probation status. The Court dismissed the petition, upholding the decision to deny the petitioner's appointment due to his criminal record.

HELD The High Court held that the employer is legally obligated to prioritize government instructions, service rules, and the candidate's criminal antecedents over their status of probation under the Probation of Offenders Act. The cancellation of Patwari selection on antecedent grounds was upheld.

“Apparently thus, Hon’ble the Supreme Court has clearly laid down that the employer is required to take into consideration the Government orders/instructions/ rules applicable to the employee at the time of taking the decision.”

HIGH COURT OF RAJASTHAN • 2023

SOURCE RJHC010824472022

15 State of Madhya Pradesh v. Bhupendra Yadav

SUPREME COURT OF INDIA • 2023-09-20 • 2023 INSC 837

The respondent applied for the post of Constable and disclosed his prior involvement in a criminal case involving charges of stalking and sexual offenses under the IPC and the POCSO Act. Although the respondent was acquitted after the complainant turned hostile and entered into a compromise, the state authorities rejected his candidature, deeming him unfit for police service due to the nature of the alleged offenses. The High Court had initially remanded the matter for reconsideration, citing the respondent's truthful disclosure. The Supreme Court set aside the High Court's decision, holding that an employer retains the discretion to assess a candidate's suitability regardless of a truthful disclosure, especially for police service, and that an acquittal based on hostile witnesses does not grant an automatic right to appointment.

HELD The Supreme Court held that the state is well within its rights to deny employment to a police candidate based on his criminal antecedents, even if he made a completely truthful disclosure. An acquittal based on a compromise or hostile witnesses in a case of sexual harassment and POCSO does not erase the stain on character.

“Even if a truthful disclosure has been made, the employer is well within its right to examine the fitness of a candidate and in a concluded criminal case, keep in mind the nature of the offence and verify whether the acquittal is honourable or benefit has been extended on technical reasons.”

SUPREME COURT OF INDIA • 2023

SOURCE ESCR0100072023

16 N. Sakthivel v. Director General of Police

MADRAS HIGH COURT • 2018-01-11 • WP(MD)/20625/2017

The petitioner, a successful candidate for the post of Grade-II Jail Warder, was denied appointment by the recruitment board due to the suppression of information regarding his previous involvement in criminal cases, citing relevant service rules. The High Court reviewed the matter, noting that the rejection orders had been issued in a 'stereotyped' manner without properly applying the guidelines set out by the Supreme Court in *Avtar Singh v. Union of India*. The Court emphasized that authorities must objectively evaluate each candidate's background and the nature of the suppression rather than applying a blanket refusal. Consequently, the Court quashed the impugned order and directed the authorities to reconsider the petitioner's case afresh.

HELD The High Court held that the recruitment board cannot issue mechanical, standardized rejection orders. In analyzing non-disclosure or past criminal history, the board must objectively apply distinct criteria based on the level and sensitivity of the post.

“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 informed service.”

MADRAS HIGH COURT • 2018

SOURCE HCMD010631592017

17 State of Rajasthan v. Suryakant

HIGH COURT OF RAJASTHAN • 2021-12-10 • SAW/780/2021

The Rajasthan government appealed a judgment that reinstated the respondent's selection as a jail guard, which had been cancelled due to an alleged criminal case and non-disclosure of that case in his verification forms. The court observed that the criminal case was initiated after the respondent had already submitted his application and he was subsequently acquitted. Furthermore, the court found no clear requirement for the candidate to disclose post-application criminal events in the specific verification documents provided. Because the cancellation order was based on factual errors and failed to account for the acquittal, the court dismissed the appeal and upheld the respondent's selection.

HELD The High Court held that the selection of the respondent could not be cancelled for non-disclosure when the criminal case arose post-application and the forms lacked specific directions to update subsequent criminal records. The candidate was rightly exonerated and entitled to selection.

"The petitioner was acquitted. This aspect has never been examined by the competent authority. The petitioner is wrongly blamed for non-disclosure of relevant facts."

HIGH COURT OF RAJASTHAN • 2021

SOURCE RJHC020575632021

18 P.K. Selvaraj v. Regional Passport Officer

MADRAS HIGH COURT • 2016-07-12 • WP(MD)/9954/2016

The petitioner challenged an order by the Regional Passport Officer impounding his passport due to several pending criminal cases involving charges related to illegal quarry operations and the Explosives Substances Act. The petitioner argued that mere pendency of an FIR does not warrant impounding under the Passports Act, 1967. The court observed that multiple criminal cases were pending against the petitioner, including one where the court had already taken cognizance and issued a process. Finding that the petitioner's travel could obstruct ongoing judicial proceedings and that he had failed to secure the necessary court permission to travel abroad as required by government notifications, the court upheld the impounding of the passport.

HELD The High Court ruled that under the Passports Act, 1967, passport impounding is completely justified if an active trial is pending in court and the applicant fails to produce travel permission from the concerned court, as travel could obstruct ongoing trial proceedings.

"the citizens against whom criminal cases are pending, are to be exempted from the operation of Section 6(2) (f) of the Passport Act, if they produce orders from the court concerned permitting them to travel abroad."

MADRAS HIGH COURT • 2016

SOURCE HCMD010819102016

Pawan Kumar v. Union of India & Anr.

SUPREME COURT OF INDIA • 2022-05-02 • 2022 INSC 499

The appellant was selected as a constable in the Railway Protection Force but was later discharged during training for failing to disclose a prior criminal case in his attestation form. Although the appellant had been acquitted in that criminal case before filling out the form, he answered 'No' to questions regarding past arrests or prosecutions, leading the authorities to conclude he had suppressed material information. The Supreme Court set aside the discharge order, ruling that the employer must exercise its power judiciously and consider the nature of the post and the gravity of the alleged suppression rather than acting arbitrarily. The Court emphasized that an acquittal in a trivial case, when undisclosed, does not automatically warrant dismissal.

HELD The Supreme Court held that the discharge of a railway constable candidate for a minor, technical suppression regarding a trivial, concluded case was disproportionate and arbitrary. Suppression must only be penalized if it relates to "material" information that directly impacts the candidate's fitness for the post.

"Suppression of "material" information presupposes that what is suppressed that "matters" not every technical or trivial matter."

SUPREME COURT OF INDIA • 2022

SOURCE ESCR010004742022

20 Anurag Jain v. Union of India

HIGH COURT OF KARNATAKA • 2024-05-31 • WP/2326/2023

The petitioner sought a direction to the passport authorities to process his application for the renewal of his passport. The respondents contested the application on the basis that a criminal case was pending against the petitioner. Following the precedent established in a prior identical writ petition, the Court addressed whether the pendency of a criminal case serves as an absolute bar to the issuance or renewal of a passport. Relying on the established legal position, the Court ruled in favor of the petitioner, confirming that the mere pendency of criminal proceedings does not automatically preclude the renewal of a passport.

HELD The High Court held that the pendency of criminal trials does not act as an absolute bar to passport renewal. The passport authorities must process the application for short-term validity, and the restriction under Section 6(2)(f) dissolves once the applicant is acquitted or discharged.

"The rigour of Section 6(2)(f) of the Act gets evaporated only when the applicant who is facing criminal proceedings or a FIR is acquitted, discharged or the proceeding against the said applicant is quashed"

HIGH COURT OF KARNATAKA • 2024

SOURCE KAHC010054432023

21 Sheeraz Ahmed Shariff v. The Regional Passport Officer

HIGH COURT OF KARNATAKA • 2024-02-16 • WP/24157/2023

The petitioner challenged an order from the Regional Passport Officer directing him to surrender his passport due to an allegation of suppressing pending criminal cases. The court found that the passport was reissued in

April 2021, while the criminal case against the petitioner was registered in September 2021; thus, there was no suppression of facts at the time of application. Relying on established precedents, the court set aside the surrender order. It clarified that while the petitioner, who faces a pending criminal trial, may not be entitled to a full-validity passport, he should instead be granted a short-validity passport, subject to court permissions required for any international travel.

HELD The High Court set aside the surrender certificate, holding that since the criminal case arose after the passport's renewal, no suppression took place. However, due to the pending trial, the petitioner must approach the trial court to seek permission to travel and obtain a short-validity passport.

"The petitioner on the strength of the passport cannot leave the shores of the nation unless he secures permission for such travel from the concerned Court where the criminal case in C.C.No.33610/2021 is pending consideration."

HIGH COURT OF KARNATAKA • 2024

SOURCE KAHC010567492023

22 Daya Shankar Yadav v. Union of India

SUPREME COURT OF INDIA • 2010-11-24 • 2010 INSC 809

The appellant, a constable in the Central Reserve Police Force (CRPF), was terminated for failing to disclose his past prosecution in a criminal case on his recruitment verification form. He argued he was not required to disclose the case because he had been acquitted and no proceedings were pending. The Supreme Court rejected this, holding that the suppression of material information regarding past criminal prosecution, regardless of the ultimate acquittal, constitutes a lack of character and suitability for uniformed service. The court emphasized that when questions in a verification form are clear, applicants must be truthful, and failure to do so justifies termination of employment.

HELD The Supreme Court held that the employer is fully authorized to terminate probationers who furnish incorrect or incomplete information regarding past prosecutions. A subsequent acquittal does not eliminate the candidate's obligation to truthfully answer unambiguous disclosure queries on the attestation roll.

"To our mind, therefore, if an enquiry revealed that the facts given were wrong, the appellant was at liberty to dispense with the services of the respondent as the question of any stigma and penal consequences at this stage would not arise."

SUPREME COURT OF INDIA • 2010

SOURCE ESCR010002062010

23 Unspecified Petitioner v. Regional Passport Officer

HIGH COURT OF ANDHRA PRADESH • 2023-04-24 • WP/9781/2023

The petitioner filed a writ petition challenging the refusal of the passport authorities to issue a passport due to a pending criminal case (FIR). The respondents argued that the passport was denied because of an adverse police

report linked to the pending crime. The Court observed that under the Passport Act, 1967, mere pendency of an FIR does not constitute an absolute bar to the issuance of a passport, as criminal proceedings typically commence only after a court takes cognizance of an offense. The Court allowed the petition, directing the passport authorities to process the petitioner's application within two weeks. The authorities were ordered to consider the application regardless of the pending crime, provided all other legal requirements are met.

HELD The High Court held that the absolute bar under Section 6(2)(f) of the Passports Act is not triggered by a mere pending FIR. While the passport authority has discretion based on specific facts, they cannot refuse a passport solely due to a pending investigation where no court has yet taken cognizance.

"A bare reading of the Passport Act, 1967 reveals that there is no absolute bar for issuance of passport. As per Section 6(2)(f) of the Passport Act, 1967 when the passport authority refuses to grant passport, the Court while exercising its discretion has to look at the facts and circumstances of the each case."

HIGH COURT OF ANDHRA PRADESH • 2023

SOURCE APHC010189852023

24 Dangeti Veera Venkata Satya Prasad v. Union of India

HIGH COURT OF ANDHRA PRADESH • 2024-10-29 • WA/383/2024

The appellant challenged the refusal of the passport authorities to issue him a passport due to a pending criminal case where a charge sheet had been filed. The appellant argued that mere filing of a charge sheet did not constitute pending criminal proceedings under Section 6(2)(f) of the Passports Act, 1967, as the Magistrate had not yet taken cognizance of the offence. The court held that criminal proceedings before a Magistrate only commence upon the judicial taking of cognizance of an offence. Since the trial court had not taken cognizance of the filed charge sheet, the statutory restriction did not apply. The court set aside the lower court's decision and directed the authorities to issue the passport.

HELD The High Court ruled that criminal proceedings before a magistrate are not considered pending under Section 6(2)(f) until the court actually takes cognizance of the offenses. The mere filing of a charge sheet by the police, without judicial cognizance, does not constitute a pending proceeding.

"In view of the fact that Section 6(2)(f) would arise only when there is a pending proceeding before the Criminal Court after cognizance is taken, it would have to be held that as of now there is no pending criminal proceeding before the Court."

HIGH COURT OF ANDHRA PRADESH • 2024

SOURCE APHC010164212024

25 Vivek Anand v. Union of India

HIGH COURT OF JAMMU AND KASHMIR • 2024-11-21 • WP(C)/322/2023

The petitioner sought the renewal of his passport, which had been held up by the authorities due to the registration of criminal FIRs against him. The respondents withheld the passport, citing ongoing investigations and discrepancies in the FIR details provided by the petitioner. The petitioner argued that mere registration of an

FIR or pendency of an investigation does not constitute criminal proceedings before a court that would disqualify an applicant under the Passport Act, 1967. The High Court held that the pendency of an investigation where no final report has been submitted to a competent court does not amount to pending criminal proceedings. Relying on established precedent, the court directed the authorities to process the petitioner's application for passport renewal in accordance with the law within one month.

HELD The High Court held that a pending investigation under an FIR is not equivalent to pending court proceedings. Because the investigation was ongoing and no final report had been placed before the court, Section 6 of the Passports Act, 1967 was inapplicable, and the passport renewal could not be withheld.

“In view of the above, it is manifest that registration of FIR and the investigation taken thereupon by the investigating agency cannot be said to be the proceedings pending before a criminal Court in India to attract disqualification laid down in Section 6 of the Passport Act.”

HIGH COURT OF JAMMU AND KASHMIR • 2024

SOURCE JKHC020007252023

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