

**A.F.R.****IN THE HIGH COURT OF ORISSA AT CUTTACK****W.P.(C) No.14568 of 2024**

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950).

Manoj Rohidas

....

Petitioner(s)***-versus-******Union of India & Ors.***

....

Opposite Party (s)

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s)

:

*Mr. S.K. Purohit, Adv.**For Opposite Party (s)*

:

*Mr. P.K. Parhi, DSGI**along with**Mr. A. Khandelwal, Adv.***CORAM:****DR. JUSTICE S.K. PANIGRAHI****DATE OF HEARING:-12.11.2024****DATE OF JUDGMENT:-17.12.2024****Dr. S.K. Panigrahi, J.**

1. In this Writ Petition, the petitioner is challenging the cancellation of his candidature for the position of Junior Overman (Trainee), as communicated in Letter No. CORP/HR/402/12/2022 dated 16.04.2024, issued by the Deputy General Manager, MPP, Recruitment & PR, NLC India Limited.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:



- (i) The petitioner holds a Diploma in Mining Engineering and is a Project Affected Person (PAP) of NLCIL. He applied for the position of Junior Overman (Trainee) in the S.I. grade at NLCIL, which was advertised under Advertisement No. 12/2022 dated 13.01.2023.
- (ii) Following the written test, the petitioner was found eligible and proceeded to the document verification stage.
- (iii) Pending the medical examination, the petitioner was informed via Letter No. CORP/HR/402/12/2022 dated 16.04.2024 that his candidature had been withdrawn, and his selection for the Junior Overman (Trainee) position in the S.I. grade had been cancelled. This action was taken due to alleged violations of Para 10.1, 10.14.1, 10.14.2, and 10.14.3 of the advertisement attached to his application dated 13.01.2023, wherein the petitioner had answered "No" to the question, *"Had you ever been convicted, detained, prosecuted, arrested, bound down, debarred, or fined by any court of law?"*
- (iv) The cancellation was attributed to the existence of the following FIRs at the time of his application:
1. FIR No.0112 dated 24.02.2017 at P.S. Jharsuguda, Odisha
 2. FIR No.0237 dated 29.09.2022 at Thelkuli, Sambalpur, Odisha
 3. FIR No.0097 dated 11.04.2023 at Thelkuli, Sambalpur, Odisha
- (v) Aggrieved by the cancellation of his candidature vide Letter No. CORP/HR/402/12/2022 dated 16.04.2024, the petitioner filed the present Writ Petition.



II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

3. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:
- (i) The petitioner contended that the cancellation of his candidature was based on fabricated claims. All relevant facts, including criminal cases, had been disclosed during the document verification process, but the Opposite Parties raised the issue at a later stage.
 - (ii) The petitioner further submitted that the FIRs, which included charges under the IPC and the Arms Act, had been fabricated by the Opposite Parties due to dissatisfaction with the petitioner's persistence in pursuing the job.
 - (iii) The petitioner contended that the question regarding court convictions, detentions, prosecutions, etc., was vague and non-specific, as it referred only to directions by a "Court of law," whereas he was arrested by the police, not convicted by the court.
 - (iv) The action taken by the Opposite Parties was harsh, disproportionate, and lacked due process. The petitioner was not given a fair opportunity to explain the circumstances behind the FIRs or clarify the allegations, and no independent verification was conducted before withdrawing his candidature.
 - (v) The petitioner contended that the recruitment process had been marred by procedural irregularities. Having allowed the petitioner to proceed through the stages of recruitment, the Opposite Parties could not now arbitrarily cancel his selection for a matter that had already been disclosed.



- (vi) The petitioner submitted that this Court should distinguish the present case from *Avtar Singh v. UOI*¹ and *State of West Bengal v. Mitul Kumar Jana*², as these cases involved general candidates. In contrast, the petitioner, being a project-affected person, had been uprooted from his home and hearth due to a public project. Therefore, this case should be considered in the context of socio-economic resettlement, ensuring employment and rehabilitation for land oustees, rather than denying such opportunities arbitrarily.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

4. The Learned Counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:
- (i) The petitioner applied online on 13.01.2023 under Advertisement No. 12/2022, fulfilled the eligibility criteria, and was issued an admit card for the written test and document verification. However, his provisional selection was cancelled due to his failure to disclose pending criminal cases, as required by the application instructions. The offer of appointment was subsequently issued to the next eligible candidate, Shri Srikanta Samal.
- (ii) The petitioner deliberately suppressed information about pending FIRs in his online application, violating Clause 10.14 of Advertisement No. 12/2022 dated 13.01.2023, which mandates rejection or termination if false or suppressed information is submitted.

¹(2016)8 SCC 471

²Civil Appeal No. 8510 of 2011



- (iii) Upon receiving details of the FIRs from Thelkoli Police Station, NLCIL's HR department determined that the petitioner was ineligible due to the suppression of material facts.
- (iv) The petitioner's claim that the suppression was inadvertent and based on a misunderstanding is untenable, as the application form and instructions clearly required disclosure of pending criminal cases, with non-compliance being grounds for disqualification.
- (v) As a premier public sector enterprise, NLCIL follows strict recruitment guidelines to maintain integrity and credibility. The cancellation of the petitioner's selection was necessary to ensure adherence to these standards and the selection of transparent, eligible candidates.

IV. COURT'S REASONING AND ANALYSIS:

- 5. Heard Learned Counsels for the parties and perused the documents placed before this Court.
- 6. It is no longer *res integra* in law that the role of a writ court to interfere with the discretionary power of the appointing authority is necessarily limited. This discretion, however, must be exercised judiciously, with due regard to the principles of fairness, proportionality, and the objectives of public service. The authority retains the prerogative to evaluate a candidate's fitness, including instances of prior criminal antecedents or suppression of information.
- 7. In *Avtar Singh v. Union of India*³, the Supreme Court laid down broad guidelines that must be taken into account by the appointing or

³(2016) 8 SCC 471



competent authority in dealing with matters where there is suppression of material information or false representation:

38.1 Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.7 In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

8. Further, in *Secretary, Department of Home, A.P. v. B. Chinnam Naidu*⁴, the Supreme Court underscored that suppression of material information or providing false information in an attestation form could lead to the termination of employment. However, the determination of whether suppression or falsehood has occurred depends on the specific facts of each case and the precise requirements of the attestation form. It was clarified that where a candidate is required to disclose if they have been convicted by a criminal court, answering in the negative does not amount to misrepresentation if only a criminal case is pending at the time.
9. Differentiating the facts from *Chinnam Naidu*(supra), in *Daya Sankar Yadav v. Union of India*⁵, the Supreme Court found that when the

⁴(2005) 2 SCC 746

⁵(2010) 14 SCC 103



appellant had knowingly made a false statement that he was not prosecuted in a criminal case, he was not entitled to any benefit of doubt

10. In a similar case, in *State of Haryana v. Dinesh Kumar*,⁶ the Supreme Court dealt with a case where an employee had answered “No” to a question regarding whether he had been arrested, despite having voluntarily appeared before a magistrate after the registration of an FIR. Although the employee was granted bail and later acquitted, it was found that he had not been formally taken into custody. Given the circumstances, it was acknowledged that it was not unreasonable for the employee, as a layperson, to believe that he had not been arrested, even though the legal definition of arrest might suggest otherwise. Consequently, the benefit of the doubt was extended to the employee, emphasizing that the situation appeared to be a misunderstanding rather than a deliberate misrepresentation or concealment of facts.
11. In the present case, the petitioner applied for the position of Junior Overman (Trainee) at NLC India Limited. The petitioner disclosed no criminal convictions or arrests but failed to mention three pending FIRs at the time of application, despite the question in the recruitment form specifically requesting disclosure of such information. These FIRs, though not resulting in convictions or formal court arrests, were material to the application process and should have been disclosed.
12. The application form for the post of explicitly required candidates to provide truthful information regarding criminal convictions, arrests, or

⁶2008 (3) SCC 222



pending cases. The petitioner's failure to disclose these FIRs, even though no court arrest occurred, constitutes suppression of material information. The purpose of the disclosure was to ensure transparency and assess the candidate's suitability for a role demanding high standards of integrity. The concealment of the FIRs undermines this principle and raises concerns about the candidate's integrity.

13. A candidate who suppresses material information or provides false declarations does not possess an unfettered right to seek appointment. The suppression of criminal antecedents and failure to disclose pending FIRs has significant consequences, particularly for positions that demand trust and integrity. The impact of withholding such material information, including involvement in criminal cases, is within the employer's discretion to assess. The employer must evaluate all relevant facts and circumstances, considering objective criteria and applicable service rules, before making a decision.

V. CONCLUSION:

14. In light of the foregoing, this Court finds no merit in the petitioner's plea to interfere with the cancellation of his candidature for the position of Junior Overman (Trainee).
15. Consequently, this Writ Petition is hereby dismissed.
16. Interim order, if any, passed earlier stands vacated.

(Dr.S.K. Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 17th Dec., 2024*