

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE VIVEK JAIN**

**WRIT PETITION No. 7043 of 2021**

***PUSHPRAJ SINGH***

*Versus*

***UNION OF INDIA AND OTHERS***

.....  
**Appearance:**

*Shri Rohit Sohgaure - Advocate for the petitioner.*

*Shri Manhar Dixit – Advocate for respondents No. 1 to 3.*

.....

**ORDER**

**(Reserved on 14.07.2025)**

**(Pronounced on 24.07.2025)**

By way of present petition challenge is made to action of the respondents in not appointing the petitioner despite he having participated and remained successful in written examination as well as physical test conducted by Army Recruitment Office, Jabalpur for the position of Soldier / General Duty.

2. Though the matter relates to enlistment in Indian Army, however, respondents have not objected to the jurisdiction of this Court on the ground that as per Section 3(o) of Armed Forces Tribunal Act, 2007, the dispute of present matter does not fall within the ambit of AFT in view of Division Bench judgment of Allahabad High Court in case of ***Union of India Vs. Kapil Kumar*** decided on **24.04.2015**. This Court is aware of the fact that if the petitioner is sent before the AFT, he would be caught in maze of legal intricacies, as the matter relates to enlistment in Armed

Forces by a person who is not yet so enlisted. in the case of *Kaptan Singh v Union of India and others (O.A No. 17 of 2015 decided on 28.05.2021)*, a Full Bench of the AFT has decided the legal issue by holding that matters pertaining to appointment and recruitment to the service is beyond the jurisdiction of this Tribunal. Finding difference of opinion between various Benches on the issue, the Full Bench of Tribunal took note of the definition of "service matters" appearing in Section 3(o) of the AFT Act, the aims and objects and the application of the AFT Act only to persons who are subject to Army Act 1950, Navy Act, 1957 and the Air Force Act 1950 and by a detailed order, after following the judgment of the Allahabad High Court in the case of *Union of India through Secretary and others v. Kapil Kumar (Special Appeal No. 833 of 2015)*, came to the conclusion that matters pertaining to "recruitment" and "appointment" are beyond the jurisdiction.

3. Proceeding on merits, the case of the petitioner is that he qualified for the post of Soldier / General Duty and was awaiting the offer letter to attend the training centre for being recruited as Soldier / General Duty. However, the offer letter has never been received by the petitioner. Upon enquiry, it was intimated that the petitioner has remained unsuccessful in criminal antecedent verification and therefore, the respondents have not given offer of appointment to the petitioner. It is contended that the alleged offence was conducted when the petitioner was a juvenile and the matter was tried by the Principal Judge, Juvenile Justice Board, Satna and therefore, the said criminal case cannot be pressed into service to disqualify the petitioner for enlistment in Armed Forces.

4. *Per contra*, the learned counsel for the respondents has argued that the petitioner made suppression in the criminal antecedent verification form and he did not disclose the conviction by the Principal Judge, Juvenile

Justice Board and therefore, the petitioner not having disclosed his conviction by Juvenile Justice Board, therefore he is disqualified not only on the ground that he has criminal antecedents but also on the ground of suppression because the case before Juvenile Justice Board was not disclosed by the petitioner in the criminal antecedent verification form.

5. Heard.

6. In the present case, it is not in dispute that the petitioner has remained successful in written test and physical test for enlistment as Soldier / General Duty. It is also not in dispute that he was tried by the Juvenile Justice Board for offences under Sections 294, 323, 506, 34 IPC wherein he admitted to the charges and upon admission of guilt, the petitioner and co-accused persons were punished with fine of Rs.1000/- each.

7. The allegations against the petitioner in the said criminal case were that on 31.05.2017 he at 4:30 pm in the evening uttered obscene words to complainant and further that he along with co-accused Juvenile assaulted the complainant with kicks and fists and also threatened him. This was the all allegation against the present petitioner in the charges framed against him under Sections 294, 323/34, 506 IPC. The petitioner pleaded guilty to the charges writing in his own handwriting that he has committed a mistake and he may be pardoned and he will not repeat the mistake. The Juvenile Justice Board thereafter passed the final order dated 24.08.2018 whereby the petitioner was convicted with imposition of fine of Rs.1000/-.

8. The Juvenile Justice Board while passing the order of conviction further mentioned in the said conviction order that the said conviction cannot be treated as disqualification in the future life of the petitioner in

any manner whatsoever. The Juvenile Justice Board in the final order of conviction recorded as under:-

“किशोर न्याय (बालको की देखरेख एवं संरक्षण) अधिनियम 2015 के उपबंध के तहत यह आदेश विधि उल्लंघनकर्ता किशोर के भविष्य पर किसी भी प्रकार से निरहताकारी प्रभाव नहीं रखेगा।”

9. Learned counsel for the respondents during the course of argument did not object to the legal proposition as per Section 24 of The Juvenile Justice (Care and Protection of Children) Act, 2015 (for short hereinafter referred to as ‘JJ Act, 2015’) to submit that as per Section 24 there would be no disqualification on the findings of offence against Juvenile because admittedly the petitioner was Juvenile and he was tried by the Juvenile Justice Board and in terms of Section 24 of JJ Act, 2015 there would be no disqualification on findings of an offence. Section 24 of JJ Act, 2015 is as under:-

***“24. Removal of disqualification on the findings of an offence.—(1) Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law:***

*Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the Children’s Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.*

*(2) The Board shall make an order directing the Police, or by the Children’s Court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed:*

*Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children’s Court”*

10. However, learned counsel for the respondents had harped on the fact that it is not a simpliciter case of Juvenile getting in conflict with law in small and trivial matter and pleading guilty to avoid agony of trial, but it is a case of Juvenile having committed another blunder of having suppressed the said fact in his antecedent verification form. Therefore, the counsel for the respondents did not object to the settled legal position that a Juvenile even upon being convicted and when he is tried as a juvenile, would be entitled to the benefit of Section 24 of JJ Act, 2015. However, what is stressed before this Court is the suppression made by the petitioner in the criminal antecedent verification form which was stated to be an exhibition of delinquent mind by the petitioner and on this ground alone, it is stated that his candidature is liable to be cancelled.

11. In this regard Section 24(2) of JJ Act, 2015 is the most relevant provision which mentions that the record of conviction shall be destroyed after expiry of period of appeal. The aforesaid Section 24(2) has to be read along with Section 3(xiv) of the JJ Act, 2015 which provides as under:-

*“3. (xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.”*

12. A conjoint reading of Section 3(xiv) and Section 24(2) of JJ Act, 2015 would imply that all past records of any child under the Juvenile Justice system should be erased except in special circumstances. Therefore, in the considered opinion of this Court, once the Juvenile having been tried as Juvenile and entitled to protection of Section 24(2) and not having committed any heinous offence as contemplated under the JJ Act, 2015, therefore, his record was liable to be erased and once the petitioner was entitled to benefit of record to be erased, then merely on account of non-

disclosure of the said conviction, more so, when it was under most trivial cognizable offences under the IPC, the said fact cannot be pressed into service as a disqualification against the petitioner.

13. The aforesaid issue was considered by the Division Bench of Delhi High Court in case of *Mohd. Parvej Alam v. Union of India*, 2024 SCC OnLine Del 1250 wherein the Delhi High Court considered the aforesaid provisions and held as under:-

*16. Undoubtedly, in the present case there is non-revealing of the factum of a pending criminal case but the legal position seems quite clear and settled. A juvenile is not required to divulge about his previous antecedents. We may also, right here, make reference to Akhilesh Kumar v. Union of India, 2018 SCC OnLine Del 7341. In said case, petitioner had applied for the post of Constable in the Railway Protection Force. As per the selection process, he filled up the requisite form mentioning therein that no criminal case was registered against him. However, when the above form was sent for police verification, it was found that he was involved in a criminal case. It was in the aforesaid background that his appointment was cancelled and he was discharged. Such order was challenged by him and a Coordinate Bench of this Court noted that the petitioner therein was juvenile at the time of the commission of offence and, therefore, he could not be made to suffer any disqualification in view of the provisions of the J.J. Act. The relevant para of the judgment reads as under:—*

*“14. The object of Section 19 of the J.J. Act is to give an opportunity to the juvenile to lead a life with no stigma and to wipe out the circumstances of his inglorious past. It is for this reason that Section 19 provides that a juvenile shall not suffer any disqualification.*

*15. The issue involved in this petition is no longer res integra in view of a recent decision of this Court in Writ Petition (C) No. 6062/2017 titled as Mukesh Yadav v. Union of India dated 14.12.2017 (authored by one of us, Hima Kohli, J.). In the said writ petition, a criminal case No. 65/2000 under Sections 147/148/149/323/324/504/307 IPC was registered in District Gopal Ganj, Bihar against the petitioner and ten other accused persons. He was also selected to the post of*

*a Constable in the RPSF. While submitting the attestation form, the petitioner did not mention about the pendency of the criminal case which came to the notice of the respondent only when the attestation form was sent for verification. The petitioner, who was undergoing training by then, was issued a discharge order dated 29.07.2015 stating that since he had suppressed the fact of the pendency of the criminal case against him while filling the attestation form, he was being discharged as per the conditions mentioned in para 3 of the attestation form.*

*16. In the above noted writ petition also, the contention raised on behalf of the respondents was that it was the duty of the petitioner to have furnished the relevant details of the criminal case pending against him at the time of filling up the verification form. But he failed to do so and the pendency of the said case came to the notice of the respondents only upon undertaking necessary police verification regarding his antecedents. The above writ petition was allowed for the following reasons:—*

*“7. We have heard learned counsel for the parties and examined the documents on the record. The facts of the case are undisputed inasmuch as there is no quarrel with regard to the plea of the learned counsel for the petitioner that on the date of the alleged offence i.e. on 9<sup>th</sup> October, 2000, the petitioner was twelve years five months old. It is also not disputed that on the date the petitioner had applied for appointment to the post of a Constable in the year 2011, a case was pending against him before the Juvenile Justice Board and same was the position on 25<sup>th</sup> May, 2014, when the petitioner was called upon by the respondents to submit an attestation form. The said criminal case attained finality by virtue of the judgment dated 3<sup>rd</sup> August, 2015, passed by the Juvenile Justice Board, District Gopalganj. However, less than a week prior thereto, the respondents passed the order of discharge against the petitioner, on the ground of withholding material information.*

*8. Having regard to the legal position, which shows that the petitioner was undoubtedly, a juvenile on the date when the alleged offence had been committed and, therefore, he was required to be dealt with under the Juvenile Justice (Care & Protection of Children) Act, 2000 (hereinafter referred to as the “Act”) which*

*declares that all criminal charges against individuals, who are described as “juvenile in conflict with law” must be initiated and decided by the authorities constituted under the Act by the Juvenile Justice Board. Even if a conviction is recorded by the Juvenile Justice Board, Section 19(1) of the Act, stipulates that the juvenile shall not suffer any disqualification attached to the conviction of an offence under such law. Further, as noted hereinabove, Section 19(2) of the Act contemplates that the Board must pass an order directing that all the relevant records relating to such a conviction, be removed after the expiry of the period of appeal or within a reasonable period as prescribed under the rules, as the case may be.*

*9. In the present case, the record reveals that the Juvenile Justice Board had acquitted the petitioner for the offence in question and, therefore, this was even otherwise, not a case of conviction for any offence. It is also noteworthy that Section 21 of the Act prohibits publication of the name of the “juvenile in conflict with law”, the underlying object of the said provision being to protect a juvenile from any adverse consequences on account of the conviction for an offence, committed as a juvenile.*

*10. Given the aforesaid position, the contention of the respondents is that petitioner was under an obligation to have disclosed the information relating to the pendency of the criminal case against him in respect of an incident that had taken place when he was all of twelve years, would run contrary to the very spirit of the Act. Keeping in mind the fact that the object of the Act is to ensure that no stigma is attached to a juvenile in conflict with law, in our view, once the juvenile has been extended a protective umbrella under the said enactment, there was no good reason for the respondents to have insisted that the petitioner ought to have disclosed the information relating to the allegations against him pertaining to an offence that was committed during his childhood where he was tried by the Juvenile Justice Board, and subsequently acquitted. We may add here that even when police verification in respect of the petitioner was being conducted on the directions of the respondents, the concerned police officials ought to have refrained from revealing the information pertaining to the petitioner in*



*the case in question, since he was a juvenile at that point in time. This was in fact a gross breach of confidentiality contemplated under the Act.*

*11. For the aforesaid reasons, the impugned order dated 11<sup>th</sup> May, 2017, is unsustainable and is quashed and set aside. The respondents are directed to reinstate the petitioner within a period of twelve weeks from today along with all the consequential benefits, excluding back wages."*

*17. Thus, in view of the above facts and the legal position, the factum of prosecution of the petitioner in case FIR No. 752/2010 under Sections 323/325/506/504 IPC could not have been taken into consideration by the respondent/RPSF on his omission to mention the same in the attestation form on account of his status as a juvenile in conflict with law on the date of commission of the alleged offence. We cannot ignore or overlook the beneficial provisions and the socially progressive statute of the Juvenile Justice Act, 2000."*

*17. Thus, applying the aforesaid legal position and keeping in mind the provisions of the JJ Act, 2000, it becomes quite obvious that the petitioner was under no legal obligation to have revealed the fact about his previous involvement in a criminal case, for an offence which he allegedly committed when he was a minor."*

**14.** The said issue was raised before the Delhi High Court in another case of ***Akhilesh Kumar v. Union of India, 2018 SCC OnLine Del 7341*** and the Delhi High Court in the said case held that the object of the Act is to ensure that no stigma is attached to a Juvenile in conflict with law and once the Juvenile has been extended a protective umbrella under the JJ Act 2015, there was no good reason for the employer to insist that the Juvenile should disclose the information in relating to offence committed under his childhood where he was tried by Juvenile Justice Board. It is further held in the said case that when police verification report was being conducted then the concerned police officials ought to have not revealed the information

pertaining to Juvenile in the case in question since he was a Juvenile at that point of time. It has been held that it infact is a case of breach of confidentiality contemplated under the JJ Act, 2015. The Division Bench of Delhi High Court held as under:-

*“16. In the above noted writ petition also, the contention raised on behalf of the respondents was that it was the duty of the petitioner to have furnished the relevant details of the criminal case pending against him at the time of filling up the verification form. But he failed to do so and the pendency of the said case came to the notice of the respondents only upon undertaking necessary police verification regarding his antecedents. The above writ petition was allowed for the following reasons:—*

*“7. We have heard learned counsel for the parties and examined the documents on the record. The facts of the case are undisputed inasmuch as there is no quarrel with regard to the plea of the learned counsel for the petitioner that on the date of the alleged offence i.e. on 9<sup>th</sup> October, 2000, the petitioner was twelve years five months old. It is also not disputed that on the date the petitioner had applied for appointment to the post of a Constable in the year 2011, a case was pending against him before the Juvenile Justice Board and same was the position on 25<sup>th</sup> May, 2014, when the petitioner was called upon by the respondents to submit an attestation form. The said criminal case attained finality by virtue of the judgment dated 3<sup>rd</sup> August, 2015, passed by the Juvenile Justice Board, District Gopalganj. However, less than a week prior thereto, the respondents passed the order of discharge against the petitioner, on the ground of withholding material information.*

*8. Having regard to the legal position, which shows that the petitioner was undoubtedly, a juvenile on the date when the alleged offence had been committed and, therefore, he was required to be dealt with under the Juvenile Justice (Care & Protection of Children) Act, 2000 (hereinafter referred to as the “Act”) which declares that all criminal charges against individuals, who are described as “juvenile in conflict with law” must be initiated and decided by the authorities constituted under the Act by the Juvenile Justice Board. Even if a conviction is recorded by the Juvenile Justice Board, Section 19(1) of the Act, stipulates that the juvenile shall not suffer any disqualification attached to the conviction of an offence under*

such law. Further, as noted hereinabove, Section 19(2) of the Act contemplates that the Board must pass an order directing that all the relevant records relating to such a conviction, be removed after the expiry of the period of appeal or within a reasonable period as prescribed under the rules, as the case may be.

9. In the present case, the record reveals that the Juvenile Justice Board had acquitted the petitioner for the offence in question and, therefore, this was even otherwise, not a case of conviction for any offence. It is also noteworthy that Section 21 of the Act prohibits publication of the name of the “juvenile in conflict with law”, the underlying object of the said provision being to protect a juvenile from any adverse consequences on account of the conviction for an offence, committed as a juvenile.

10. Given the aforesaid position, the contention of the respondents is that petitioner was under an obligation to have disclosed the information relating to the pendency of the criminal case against him in respect of an incident that had taken place when he was all of twelve years, would run contrary to the very spirit of the Act. **Keeping in mind the fact that the object of the Act is to ensure that no stigma is attached to a juvenile in conflict with law, in our view, once the juvenile has been extended a protective umbrella under the said enactment, there was no good reason for the respondents to have insisted that the petitioner ought to have disclosed the information relating to the allegations against him pertaining to an offence that was committed during his childhood where he was tried by the Juvenile Justice Board, and subsequently acquitted. We may add here that even when police verification in respect of the petitioner was being conducted on the directions of the respondents, the concerned police officials ought to have refrained from revealing the information pertaining to the petitioner in the case in question, since he was a juvenile at that point in time. This was in fact a gross breach of confidentiality contemplated under the Act.**

11. For the aforesaid reasons, the impugned order dated 11<sup>th</sup> May, 2017, is unsustainable and is quashed and set aside. The respondents are directed to reinstate the petitioner within a period of twelve weeks from today along with all the consequential benefits, excluding backwages.”

(Emphasis added)

17. Thus, in view of the above facts and the legal position, the factum of prosecution of the petitioner in case FIR No. 752/2010 under Sections 323/325/506/504 IPC could not have been taken into

*consideration by the respondent/RPSF on his omission to mention the same in the attestation form on account of his status as a juvenile in conflict with law on the date of commission of the alleged offence. We cannot ignore or overlook the beneficial provisions and the socially progressive statute of the Juvenile Justice Act, 2000.”*

15. The Hon’ble Supreme Court in case of ***Union of India v. Ramesh Bishnoi, (2019) 19 SCC 710*** has held that a minor at the time of commission of offence even if convicted, nothing can be held against him in terms of Section 3(xiv) of JJ Act, 2015 because no stigma is attached to any crime committed by Juvenile and object of legislation is to reintegrate Juvenile back into the society as normal person and not to cast stigma and brand him as a criminal or as a person having delinquent mind. The Hon’ble Supreme Court has held as under:-

*“9. In the present case, it is an admitted fact that the respondent was a minor when the charges had been framed against him of the offences under Sections 354, 447 and 509 IPC. It is also not disputed that he was acquitted of the charges. However, even if he had been convicted, the same could not have been held against him for getting a job, as admittedly, he was a minor when the alleged offences were committed and the charges had been framed against him. Section 3(xiv) provides for the same and the exception of special circumstances does not apply to the facts of the present case.”*

16. The Hon’ble Supreme Court very recently in case of ***Lokesh Kumar Vs. State of Chhattisgarh in SLP (Crl.) No.851/2025*** decided on 18.02.2025 has considered the said issue in detail. In the said case also the Juvenile had confessed to the offence and was sentenced to sit before the Juvenile Justice Board till rising of the Board and imposed the fine of Rs.600/-. The police authorities issued character verification certificate for the purpose of employment to the person who was earlier a Juvenile at the time of trial and conviction and disclosed the prior conviction in the character certificate. The Hon’ble Supreme court held that a conjoint

reading of Section 24 and Section 3(xiv) of JJ Act, 2015 mandates that all past records of the juvenile in conflict with law should be erased and it should not operate as bar to the child's future unless the alleged offence was within the specific exceptions. It has been held that legislative design of Section 24 is emphatically protective in nature and carves out a unique sphere of immunity for individuals whose offences have been adjudicated under the Juvenile Justice framework which is rooted in broader humanitarian object of JJ Act, 2015 which is to rehabilitate and reintegrate juveniles into society free from stigma of their past conflicts with law.

17. The Hon'ble Supreme Court further held that the JJ Act, 2015 lays emphasis on child centric approach as underscored by Section 3(xiv) thereof which provides for principle of fresh start making it clear that all past records of any child under the Juvenile Justice system should be erased except in special circumstances. The said case was also under Sections 294, 506, 323/34 IPC. The Hon'ble Supreme Court considering the earlier judgment in the case of **Ramesh Bishnoi (supra)** held that there is no persisting stigma on the juvenile and therefore, authorities ought not to have disclosed the previous conviction as Juvenile in the character certificate. The Hon'ble Supreme Court in **Lokesh Kumar (supra)** ultimately held as under:-

*"19. The Impugned Order dated 27.08.2024 is hereby set aside. The character certificate dated 09.07.2024, insofar as it discloses or relies upon the Appellant's juvenile conviction, is quashed. All concerned authorities are directed not to treat or disclose the said juvenile conviction in any future verification, screening, or certification process relating to the Appellant's education, employment, or any other opportunity.*

*20. It is further directed that the record of the Appellant's juvenile conviction, except as permitted in the limited circumstances contemplated by the JJ Act, 2015, shall be treated*

*in accordance with Section 24 of the said Act, so that it does not operate as a disqualification or hinder his prospects in any manner. This direction shall be strictly complied with by all authorities, including the police and other public bodies, who may be required to issue character certificates or conduct background checks on the Appellant.”*

**18.** Consequently, in view of the aforesaid settled position of law, the action of the respondents in not giving offer of appointment to petitioner by treating his non-disclosure of most trivial offence as a disqualification cannot be given stamp of approval.

**19.** The petition is **allowed**. The respondents are directed to act upon the result of the petitioner in written examination and physical test without treating him to be disqualified for not having disclosed the offence which was committed by him as a Juvenile. Let needful be done within one month.

**(VIVEK JAIN)**  
**JUDGE**