



O.P. (KAT) No.72 of 2025

-:1:-

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

FRIDAY, THE 4TH DAY OF JULY 2025 / 13TH ASHADHA, 1947

OP (KAT) NO. 72 OF 2025

AGAINST THE ORDER DATED 08.08.2023 IN OA (EKM) NO.1183 OF 2022 OF
KERALA ADMINISTRATIVE TRIBUNAL AT THIRUVANANTHAPURAM (ADDITIONAL BENCH,
ERNAKULAM)

PETITIONER/S:

JIJIN R,
AGED 36 YEARS
S/O.RAJAN, JEENA NIVAS, KALAMANDAPAM, VADAKKUMMURI,
PALAKKAD, PIN - 678001

BY ADVS.
SHRI.KALEESWARAM RAJ
KUM.THULASI K. RAJ
SMT.CHINNU MARIA ANTONY
SMT.APARNA NARAYAN MENON

RESPONDENT/S:

1 STATE OF KERALA,
REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY OF THE
GOVERNMENT, HOME DEPARTMENT, THIRUVANANTHAPURAM, PIN -
695001



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- 2 STATE POLICE CHIEF,
 POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN
 - 695010
- 3 ADDITIONAL DIRECTOR GENERAL OF POLICE,
 ARMED POLICE BATTALION, THIRUVANANTHAPURAM, PIN - 695005
- 4 DISTRICT POLICE CHIEF,
 DISTRICT POLICE CHIEF OFFICE, PALAKKAD, PIN - 678001
- 5 COMMANDANT,
 KERALA ARMED POLICE-2 BATTALION, MUTTIKULANGARA, PALAKKAD,
 PIN - 678594

SENIOR GOVERNMENT PLEADER SHRI B.UNNIKRISHNA KAIMAL

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN FINALLY HEARD
ON 25.06.2025, THE COURT ON 04.07.2025 DELIVERED THE FOLLOWING:



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A. MUHAMED MUSTAQUE & JOHNSON JOHN, JJ.

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"C.R."

Dated this the 4th day of July, 2025

J U D G M E N T

A.Muhamed Mustaque, J.

The petitioner, Shri Jijin R., belongs to the Ezhava community, a backward community. His mother, Smt. Radha N., was a part-time sweeper in the Police Department. Radha passed away on 03/11/2017 while she was in the service. Jijin was offered a job as a Driver (Police Constable) under the compassionate employment scheme. The family satisfies the eligibility criteria for appointment under the compassionate employment scheme. Jijin



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did not possess a clean image and was involved in criminal cases. Jijin is now stated to be 37 years old. He has been involved in criminal cases since 2012. He has faced many hurdles in life, including involvement in criminal cases. He was able to walk free on payment of a fine in one case and suffered a day's imprisonment and fine in another. In three cases, he was acquitted. The last case involved a matrimonial dispute and ended in a compromise. Jijin studied only up to SSLC. He had no access to the portals and corridors of higher learning, like many who belong to the lower strata. He had no dream about his future. His wandering mind endured the circumstances of life, and all were seen as part of his destiny. He never thought that he would have a chance to improve until the moment came in the form of an opportunity that knocked at his door, consequent upon the death of his beloved mother. He thought his destiny would mark another chapter in his life. But it was not so. The Law became a barrier for him. Opportunity, a



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fleeting concept in chaos, seemed stuck, taunting him with its elusiveness. He was unsuccessful before the Tribunal, as the law did not side with him. Law characterised him as a man of ill-repute, a bad and condemnable person, forever in pursuit of public employment. He seems to have a belief that howling tempest would dampen his hopes, yet he pressed on, pinning hope on this court, driven by determination, invoking Article 227 of the Constitution.

2. For the Government, in law, he committed two sins.

i. Involvement in criminal offences.

ii. Non-disclosure of involvement in criminal offences.

3. We are in this case called upon to decide on justice by balancing law and fate, and the dream of a poor man who belongs to a backward community. However, to do so, justice must be weighed on a balancing scale.



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4. As unfolded above, he was involved in the following cases;

SL. NO.	CRIME NO. / CASE NO.	SECTION	ALLEGATIONS	STATUS
1.	Crime No.1123/2012 registered in Palakkad Town North Police Station	Section 15(C) of Abkari Act	Consuming alcohol at a public place in front of the Palakkad Stadium Bus stand on 09.06.2012	paid fine of Rs. 2,500/-.
2.	Crime No.1581/2012 registered in Palakkad Town North Police Station	Section 119(a) of Kerala Police Act	Looking at women at the bus stand and making sexual gestures.	sentenced to imprisonment for one day till the rising of the court and paid a fine of Rs. 3000/-.
3.	Crime No.1485/2014 registered in Palakkad Town North Police Station	Section 44, 323, 341, 294(d) read with 34 IPC	Trespass onto the property of the complainant's husband.	acquitted u/s 255 CrPC.
4.	Crime No.1477/2017 registered in Palakkad Town North Police Station	Section 341, 323, 294(b) read with 34 IPC	Restraining, beating and abusing the complainant.	acquitted u/s 320(8) CrPC.



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SL. NO.	CRIME NO. / CASE NO.	SECTION	ALLEGATIONS	STATUS
5.	Crime No.46/2018 registered in Palakkad Town North Police Station	Section 341, 323, 294(b) IPC	Restraining, beating and abusing the complainant.	acquitted u/s.320(8) CrPC.
6.	M.C. No. 81/2019 before JFCM Court, Chittor	Section 12 of the Domestic Violence Act	Domestic violence against the wife.	compromised and settled jointly.

He also failed to disclose, in the verification roll dated 22/02/2022, his involvement in the aforementioned criminal offences.

5. The character of an individual considered for a public service appointment is of paramount importance to uphold public confidence in the integrity and image of the civil service. The Kerala State Subordinate Service Rules, 1958 (KS&SSR) in general, prescribes that the State Government must be satisfied with the character and antecedents of a person to qualify him for such service {See Rule 10(b)(iii) of KS&SSR}. Similar provisions are found in the Kerala Police Act, 2011, prescribing disqualification for



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appointment as a Police Officer. While KS&SSR prescribes disqualification on general terms as to character, the Kerala Police Act, 2011, enumerates the circumstances in which such a person would be considered as disqualified. In the Kerala Police Act, 2011, it is stipulated that a person involved in a criminal offence involving violence or moral turpitude will be considered for appointment only after being acquitted of such offences (See Section 86 of the Kerala Police Act, 2011). That means, there is a bar in consideration unless he is acquitted. But that does not mean, merely on acquittal, he will be eligible to be appointed unless he is satisfied by the test of character under the general rules as prescribed in KS&SSR. In **State of Kerala v. Durgadas [2023 (6) KHC 339]**, this Court held that mere acquittal will not entitle a person to appointment in public service based on the provisions under the Kerala Police Act, and such a person will have to establish his



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character in accordance with the general provisions prescribed in KS&SSR.

6. The character of a person is often assessed from the records available in the public domain. In case a person is involved in a criminal offence, it is possible to form an opinion of their character from the records related to criminal offences, even though such prosecution ended in the acquittal of that person. The judiciary often used the phrase '*honourable acquittal*' to denote that the resultant portion of the prosecution is immaterial and the findings entered in the prosecution are decisive in analysing the character. The Hon'ble Supreme Court analysed the true meaning of '*honourable acquittal*' in various precedents from **RBI v. Bhopal Singh Panchal [(1994) 1 SCC 541]** onwards. From **Bhopal Singh Panchal's** case onwards, the courts interpreted the expression '*honourable acquittal*' as acquittal of blame, fully exonerated and not by the benefit of doubt.



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6.i. The Apex Court looked into the meaning of '*honourable acquittal*' in the case of **State of Assam and Another v. Raghava Rajgopalachari [(1972) 7 SLR 44]** by affirming the views of Lord-Williams, J. in **Robert Stuart Wauchone v. Emperor (1934) 61 I.L.R. Cal. 168**, which reads as follows:

"The expression "honourably acquitted" is one which is unknown to courts of justice. Apparently it is a form of order used in courts martial and other extra-judicial tribunals. We said in our judgment that we accepted the explanation given by the Appellant, believed it to be true and considered that it ought to have been accepted by the Government authorities and by the Magistrate. Further, we decided that the Appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgment was that the Appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what the Government authorities term "honourably acquitted."

(emphasis supplied)

6.ii. In **Inspector General of Police v. S. Samuthiram, (2013) 1 SCC 598**, the Apex Court held as follows:

"24. The meaning of the expression "honourable acquittal" came up for consideration before this Court in *RBI v. Bhopal Singh Panchal* [(1994) 1 SCC 541 : 1994 SCC (L&S) 594 : (1994) 26 ATC 619] . In that case, this Court has



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considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions "honourable acquittal", "acquitted of blame", "fully exonerated" are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression "honourably acquitted". When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

6.iii. The Apex Court in **State (UT of Chandigarh) v. Pradeep Kumar [(2018) 1 SCC 797]** held as follows:

"10. The acquittal in a criminal case is not conclusive of the suitability of the candidates in the post concerned. If a person is acquitted or discharged, it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Unless it is an honourable acquittal, the candidate cannot claim the benefit of the case. What is honourable acquittal, was considered by this Court in *Inspector General of Police v. S. Samuthiram* [*Inspector General of Police v. S. Samuthiram*, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229].."

(emphasis supplied)



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6.iv. The Apex Court in **Union of India v. Methu Meda [(2022) 1 SCC 1]** observed as follows:

"12. In view of the above, if the acquittal is directed by the court on consideration of facts and material evidence on record with the finding of false implication or the finding that the guilt had not been proved, accepting the explanation of accused as just, it be treated as honourable acquittal. In other words, if prosecution could not prove the guilt for other reasons and not 'honourably' acquitted by the Court, it be treated other than 'honourable', and proceedings may follow.

13. The expression 'honourable acquittal' has been considered in the case of S. Samuthiram (supra) after considering the judgments of Reserve Bank of India vs. Bhopal Singh Panchal (1994)1 SCC 541, R.P. Kapur (supra), Raghava Rajagopalachari (supra); this Court observed that the standard of proof required for holding a person guilty by a criminal court and enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing guilt of the accused is on the prosecution, until proved beyond reasonable doubt. In case, the prosecution failed to take steps to examine crucial witnesses or the witnesses turned hostile, such acquittal would fall within the purview of giving benefit of doubt and the accused cannot be treated as honourably acquitted by the criminal court. While, in a case of departmental proceedings, the guilt may be proved on the basis of preponderance and probabilities, it is thus observed that acquittal giving



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benefit of doubt would not automatically lead to reinstatement of candidate unless the rules provide so.”

7. These lines of decisions establish the principle that character analysis based on criminal prosecution on acquittal must be on honourable acquittal without any blemish of his involvement in such offence.

8. There exists another line of judicial precedents that applies the *proximate test*, wherein the focus is on the relevance and temporal proximity of past conduct to the time of appointment. In this approach, even if an individual was involved in a criminal case, whether resulting in conviction or an acquittal (other than an honourable acquittal), such involvement is deemed immaterial if it bears no proximate nexus to the period under consideration for public employment. Courts adopting this perspective have held that, in the absence of such a nexus, past criminal records should not be treated as determinative in the assessment of character for appointment purposes.



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9. This Court in **Bineesh Babu v. State of Kerala, [2024 (3) KHC 364]** has held as follows:

"8. If criminal cases reveal a character unsuitable for the requirements of a public servant, then the character revealed in those criminal cases becomes a relevant factor. The necessary traits required include personal integrity, adherence to the law, and competence in enforcing rules or laws. There must be a proximity of the history and considerations for keeping an individual in public service. The antecedents, as mentioned in the rule above, should be of a nature that gives room for the opinion that the individual's character has not improved or reformed while being considered for appointment in public service. The past shall hold him but shall not withhold his aspirations for improvement and progress. Society or the State should not harbor contempt for such a person solely because he was involved in any criminal case. The State's stance is to discourage individuals of ill repute who lack character from holding public service positions, but that does not mean a sinner's transgression should not contempt him indefinitely."

10. We are not approaching this case through the lens of either the *honourable acquittal* test or the *proximate test*. Instead, we adopt a distinct line of analysis grounded in the *nexus test*. Accordingly, we do not find it necessary to assess the matter with reference to the aforementioned tests.



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11. Under the *nexus test*, the focus of inquiry is to determine whether there exists a relevant connection between the alleged offence, the imputation upon the individual's character, and the nature of the post in question. The primary consideration is whether the position sought requires a high degree of public trust or involves the exercise of discretionary authority.

12. The second consideration, equally important, is whether, given the individual's social and economic background, such a person ought to be denied access to public employment of that nature. This necessitates a deeper engagement with the structural disparities rooted in social and economic backwardness, which in turn influence the development and perception of individual behaviour and character. *The social environment plays a significant role in shaping people's behaviour. The social environment includes family, friends, community, culture, and media. These factors can*



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*influence individuals' attitudes, beliefs, and values, as well as their decisions and actions.*¹

13. In a book titled '***The Criminal: His Personnel and Environment— A Scientific Study***' by August Drahms, published by Patterson Smith Publishing Corporation, the author explains how a person's character is shaped by their environment and how criminal behaviour can be inherited:

"The criminal by instinct is born, not made; the criminal by habit is made, not born. The one is a question of heredity reënforced by a self-sought environment; the other, of environment modified (or unmodified) by an unsought heredity. Heredity is the mother of crime; environment is the father."

14. Research by social scientists emphasised psychological constructs in varied social backgrounds of persons and opined that perceived control of behaviour is a resultant outlook based on their

¹ Dhiman, D.B., *How Social Environment Influences People's Behavior: A Critical Review*, SSRN (2023), Available at: [How Social Environment Influences People's Behavior: A Critical Review by Dr. Bharat Dhiman :: SSRN](#), last visited 01/07/2024.



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social class. In an Article, '***The psychology of social class: How socioeconomic status impacts thought, feelings, and behaviour***' by ***Antony S. R. Manstead***, published in the ***British Journal of Social Psychology***, the author has drawn a distinction of human behaviour based on the social structure of the class as follows:

"Another important difference between the contextualist lower-class orientation and the solipsistic upper-class one, according to Kraus et al. (2012), is in perceived control. Perceived control is closely related to other key psychological constructs, such as attributions. The evidence shows very clearly that those with lower subjective social class are also lower in their sense of personal control, and it also suggests that this reduced sense of control is related to a preference for situational (rather than dispositional) attributions for a range of social phenomena, including social inequality. The logic connecting social class to perceptions of control is straightforward: Those who grow up in middle- or upper- class environments are likely to have more material and psychological resources available to them, and as a result have stronger beliefs about the extent to which they can shape their own social outcomes; by contrast, those who grow up in lower-class environments are likely to have fewer resources available to them, and as a result have weaker beliefs about their ability to control their outcomes."



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15. Also, in a book titled '**Character and Social Structure: The Psychology of Social Institutions**', by **Hans H. Gerth & C. Wright Mills**, published by **Harcourt, Brace & Co.**, the author refers to how men shape their role and character through the social institutions in which they are engaged.

"Man as a person is a historical creation, and can most readily be understood in terms of the roles which he enacts and incorporates. These roles are limited by the kind of social institutions in which he happens to be born and in which he matures into an adult. His memory, his sense of time and space, his perception, his motives, his conception of his self ... his psychological functions are shaped and steered by the specific configuration of roles which he incorporates from his society."

16. The character analysis of a person must be grounded in an understanding of the structural inequalities that continue to pervade society. The impact of systemic social and economic backwardness cannot be ignored, as it often results in disparities in conduct, opportunity, and the development of character.



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17. The Constitution envisions a substantive model of equality that demands sensitivity to context and background. Denying public employment solely on the basis of perceived character, without accounting for these deeper social realities, would amount to reinforcing marginalisation rather than addressing it. The judiciary, as the guardian of constitutional values, must ensure that access to public office remains open to all, particularly those who have historically been denied such opportunities.

18. We also see the basis for the *nexus test* in light of the judgment of the Apex Court in **Avtar Singh v. Union of India, [(2016) 8 SCC 471]** in paras 36 and 37 wherein it was opined as follows:

"36. What yardstick is to be applied has to depend upon the nature of post, higher post would involve more rigorous criteria for all services, not only to uniformed service. For lower posts which are not sensitive, nature of duties, impact of suppression on suitability has to be considered by authorities



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concerned considering post/nature of duties/services and power has to be exercised on due consideration of various aspects.

37. The "McCarthyism" is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformatory theory cannot be ruled out in toto nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for cancelling candidature or discharging an employee from service."

19. The first element of the *nexus test* is the nature of the post. The suitability of a person to the post has to be considered from the point, how the public would view if such a person is appointed to service. If the public, as a matter of right, has to interact or engage, and an element of discretion is left with the person concerned in the exercise or discharge of his duties, certainly, it is a matter related to public confidence in the post. If not, the Government can take a chance by giving an opportunity to reform. It is to be remembered that the Government is not losing its power to act against him if he is found engaged in activities detrimental to service through disciplinary actions. We are not holding that, in any such post, where the public confidence is not



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intrinsically linked or connected, character analysis is not required. We are emphasising on a point that when a person from a lower strata or marginalised background is appointed to such a post and given an opportunity to improve himself and his character, that becomes more of a reformatory or rehabilitative measure of the State. However, if for the same post, a person coming from an advantageous background is considered, that cannot be considered on the same yardsticks. Equality, in essence, addresses the disparities or gaps that exist in society. It is a constitutional goal professed through Articles 14 and 16 of the Constitution. Therefore, the Government, while analysing the character, cannot ignore the social background of a person who seeks appointment in public service.

20. In **Bineesh Babu v. State of Kerala [2024 (3) KHC 364]**, this Court in paragraph 13 opined as follows:

"13. The State must act with fairness and genuine concern for its citizens, striving to achieve the status of a true welfare State by addressing



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social disparities and acknowledging that not everyone has the same access to resources and opportunities. These disparities result in diverse challenges. An individual's personality varies in social structure based on traits, social and cultural environment, family background etc. Uniform standards are inadequate for effectively addressing these challenges. Recognising that individuals are shaped by unequal circumstances and may not receive equal respect, the State shall tailor its response to the circumstances based on the relative requirements. The State should realize that social upbringing shapes character and there is no single form of social upbringing due to diverse circumstances. Attempting to apply identical measures (in a matter like this relating to character) to all individuals can be counterproductive to the State's larger objectives. Instead, the State should focus on evolving character, by fostering a sense of belonging within the desired societal framework. Condemnation alienates and deepens social division resulting in further marginalizing those who have already been marginalized."

21. The modern approach is to reform a person instead of branding him as a criminal for all of his life. The Apex Court in **Commr. of Police v. Sandeep Kumar, [(2011) 4 SCC 644]** in paragraph 9 has observed as follows:

"9. In this connection, we may refer to the character "Jean Valjean" in Victor Hugo's novel *Les Miserables*, in which for committing a minor offence of stealing a loaf of bread for his hungry family Jean Valjean was branded as



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a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.”

The Apex Court in the above judgment held that the approach should be to ignore minor offences rather than to brand them as criminals.

22. The twin tests we referred to, first, relating to the nature of the post, and second, considering the social background of the aspirant, must be applied contextually, guided by sound reasoning and the principles we have outlined. We are only pointing out that uniform application of rules without regard to the diverse social, cultural and historical context of the people can result in injustice, particularly, marginalised and backward communities. If the law is applied uniformly without regard to the inherent inequalities among individuals, it neglects the constitutional mandate to ensure substantive equality. Such an approach disregards the structural disadvantages faced by marginalised groups and ultimately subverts the core values of justice and equality enshrined in the



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Constitution. Neutral rules often ignore the deep-rooted disadvantages and systematic barriers to their application. Therefore, any assessment of character for public employment must be grounded in a contextual understanding of the individual's social background. A uniform application of identical standards, without accounting for one's socio-economic circumstances or the nature of the post in question, would be contrary to the ethos of a welfare state which aspires to achieve substantive equality by dismantling entrenched social and structural barriers.

23. We must interpret and apply the law beyond its literal words and read it through the lens of justice. Every law is made with an aim to create a just society. A law that loses its connection to justice becomes hollow and would be regarded as a technical tool. The Government or any authority that wields the power to apply law cannot disregard its intimate relation with justice. Law is enacted as an expression of the collective consciousness,



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embodying the ideals of equality and justice. While the law may be neutral in its text and bind all equally, its application must not result in outcomes that undermine constitutional values. If the enforcement of law leads to injustice, particularly in a manner that strikes at the core principles of equality enshrined in the Constitution, it becomes imperative for a constitutional court to intervene and uphold justice in line with the foundational ideals and values of the Constitution.

24. The post in question is the police driver (Police Constable). In that context, character cannot be assessed in isolation from that post. It does not involve a public interface or exercise of discretion. In that view of the matter, the Government should not resist an opportunity for redemption and improvement, considering his social background.

25. The petitioner in this case was offered employment under the compassionate scheme. That itself speaks about the



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economic and financial status of his family. The character of the petitioner cannot be analysed in isolation or devoid of the broader context of his social realities. Therefore, an opportunity should be given to reform him. Denial of such opportunity based on a static notion of his character will breed alienation and will push a person like the petitioner to further marginalisation. The State, in such instances, must refrain from treating the withdrawal of employment as a punitive act and instead embrace its constitutional obligation to pursue redemptive and rehabilitative measures.

26. The Hurdle of the petitioner is not over. He has not furnished his involvement in criminal offences in the verification roll. The verification roll is the information elicited from those who have been offered public employment. The learned Senior Government Pleader has produced the verification roll dated 22/02/2022 submitted by the petitioner, along with a memo. The



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clauses in the verification roll are bilingual in both English and Malayalam. But very strangely, clause 19 is only in English. It is appropriate to refer to clause 19.

"19. a) Have you ever been kept under detention or bound down or convicted for any offence by a court of law? Is any case pending trial against you in any criminal court at the time of filling up this attestation form?

(b) If the answer is "yes", full particulars of the case, detention, conviction, sentence, etc., should be given."

27. We are unable to understand why no such information is sought in Malayalam. It is high time for the Government to incorporate such a change in the questionnaire to include clause 19 in Malayalam language as well. First of all, we find that a person who has studied only till the 10th grade may find it difficult to understand the true intention of the questionnaire. Clause 19(a) has two parts. The first part refers to detention or conviction. The second part relates to seeking details of pending cases. The person who is convicted of a fine is also a convict. It is appropriate that clause 19 is worded properly to refer to cases in which a fine



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amount is levied. Otherwise, a candidate would think that a conviction is when a person undergoes only imprisonment. It is to be noted that a person who has not studied much may lack the discernment to understand the true meaning of conviction. Anyway, after expressing our view as above, we want to consider the legality of the non-disclosure of such information. Non-disclosure of information sought has two different consequences: one related to material suppression; the second related to his conduct. No doubt, if material information is suppressed, that itself would reflect his character, making him ineligible for public employment. However, if the information sought is not material, such conduct can be condoned considering the educational standard and social background of the person concerned.

28. In **Avatar Singh** (supra), the Apex Court held that suppression of immaterial facts cannot adversely affect the fitness of a person on the lapse of such a person, and the employer can



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condone such lapse. It is reiterated that the employer should adopt objective criteria and has discretion to condone the omission.

29. Further, the Apex Court in **Ravindra Kumar v. State of U.P. [(2024) 5 SCC 264]** held as follows:

“34... Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario.”

30. In this case, suppression was not of a material fact; even if the information was disclosed, he could not have been denied public employment. Two of the offences which could be relied on to analyse the character of the petitioner were committed in the year 2012, long before he was offered the employment; and he was convicted to pay a fine of Rs. 2500 in one and also sentenced to imprisonment till the rising of the Court and paid a fine of Rs. 3000/- in the other.



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In conclusion, the impugned order of the Tribunal is set aside. The Original petition is allowed, setting aside Annexure 13, government order dated 11/04/2022. Consequently, there shall be a direction to appoint him within a period of 4 weeks.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

Sd/-

JOHNSON JOHN, JUDGE

ms



O.P. (KAT) No.72 of 2025

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2025:KER:49236

APPENDIX OF OP(KAT) 72/2025

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE DEATH CERTIFICATE DATED 20.11.2017 ISSUED BY THE HEALTH INSPECTOR IST REGISTRAR OF BIRTH AND DEATH, KOCHI MUNICIPAL CORPORATION.
Annexure A2	TRUE COPY OF THE G.O(MS)NO.28/2021/HOME DATED 04.02.2021 OF THE ADDITIONAL SECRETARY TO GOVERNMENT,- 1ST RESPONDENT.
Annexure A3	TRUE COPY OF THE ADVICE MEMO NO.M4(A) - 103202/2019/PHQ DATED 16.02.2021 OF THE JUNIOR SUPERINTENDENT FOR STATE POLICE CHIEF.
Annexure A4	TRUE COPY OF THE COMMUNICATION NO.A2(B) - 4423/2021/KAP-II DATED 19.02.2021 ISSUED BY THE COMMANDANT TO THE APPLICANT.
Annexure A5	TRUE COPY OF THE LEGAL OPINION NO.32/2021.APP DATED 02.09.2021 ISSUED BY THE ASSISTANT PUBLIC PROSECUTOR, GR.II, JFCMC II, PALAKKAD.
Annexure A6	TRUE COPY OF THE LEGAL OPINION NO.31/2021/APP DATED 02.09.2021 ISSUED BY THE ASSISTANT PUBLIC PROSECUTOR, GR.II, JFCMC II, PALAKKAD.
Annexure A7	TRUE COPY OF THE REPRESENTATION DATED 17.08.2021 OF THE APPLICANT BEFORE THE 4TH RESPONDENT.
Annexure A8	TRUE COPY OF THE ORDER IN O.A(EKM)NO.1577/2021 DATED 06.10.2021 OF THIS KERALA ADMINISTRATIVE TRIBUNAL AT ADDITIONAL BENCH, ERNAKULAM.
Annexure A9	TRUE COPY OF THE SHOW CAUSE NOTICE NO.SSB3/9/2022/HOME ISSUED BY THE DEPUTY SECRETARY, OFFICE OF THE 1ST RESPONDENT DATED 25.01.2022 ALONG WITH APPROXIMATE TYPED COPY.
Annexure A10	TRUE COPY OF THE ORDER IN MC NO.81/2019 DATED 13.10.2021 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHITTUR ALONG WITH APPROXIMATE TYPED COPY.



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Annexure A11	TRUE COPY OF THE JUDGMENT IN O.P.NO.1167/2021 DATED 25.06.2022 IN THE FAMILY COURT, PALAKKAD ALONG WITH APPROXIMATE TYPED COPY.
Annexure A12	TRUE COPY OF THE REPLY DATED 09.02.2022 SUBMITTED BY THE APPLICANT BEFORE THE DEPUTY SECRETARY, HOME DEPARTMENT (SSB), TVM.
Annexure A13	TRUE COPY OF THE G.O(RT)NO.1031/2022/HOME DATED 11.04.2022 ISSUED BY THE SPECIAL SECRETARY TO GOVERNMENT.
Exhibit P1	TRUE COPY OF THE MEMORANDUM IN O.A(EKM) NO.1183/2022 TOGETHER WITH ANNEXURES.
Exhibit P2	TRUE COPY OF THE ORDER DATED 08.08.2023 IN O.A(EKM) NO.1183/2022 PASSED BY THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.
Exhibit P3	TRUE COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE 1ST RESPONDENT IN OA(EKM) NO.1183/2022 BEFORE THE HON'BLE TRIBUNAL.
Exhibit P4	A TRUE COPY OF REPLY STATEMENT FILED ON BEHALF OF THE 4TH RESPONDENT IN OA(EKM) NO.1183/2022 BEFORE THE HON'BLE TRIBUNAL.
Exhibit P5	A TRUE COPY OF REJOINDER STATEMENT FILED BY APPLICANT BEFORE THE HONOURABLE TRIBUNAL.