30. We have noticed various decisions and tried to explain and reconcile them as far as possible. In view of aforesaid discussion, we summarize our conclusion thus:

(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.

(2) While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

(3) The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.
(4) In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted:

(a) In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

(b) Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

(c) If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

(5) 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.

(6) In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.

(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) 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.

(9) In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

(10) For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

(11) Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.

हीरालाल के मामले में माननीय राजस्थान उच्च न्यायालय ने प्रार्थियों को चुनौती श्रेणी कर्मचारी की नियुक्ति के समय धारा 498 ए— 323 आई.पी.सी. के तहत बर्ज प्रकरण को वैधिक विवाद मानते हुये
नियुक्ति के आदेश दिये जाने के साथ ही साथ सजायादी की स्थिति में नियोजन को निर्णय पर पुनःविचार की स्वतंत्रता दी।

हस्तगत प्रकरण में प्राधिकृत को समरूप श्रेणी कर्मचारी जैसे निम्न पद पर नियुक्ति नहीं दी जाकर एक ऐसे अधिकारी को रूप में (सहायक अभियोजन अधिकारी के पद पर ) नियुक्ति दी जानी है जिसका सीधा संबंध पुर्तता विभाग से रहता है इस कारण ही राजस्थान के मामले में वर्तमान तथ्य प्रकरण की परिस्थितियों को देखते हुये पूर्वता निम्न पद पर नियुक्त होते हैं। जहां तक अवतार सिंह के मामले का संबंध है इससे शासकीय आदेशों/निर्देशों व नियमों का ध्यान में रखने का निर्देश दिया गया है। राजस्व विभाग के कार्यकारी विभाग द्वारा जारी चरित्र पत्र दिनांक 15.07.2016 के विन्दु सं 1(vii) में अंकितानुसार किसी भी अन्य से के विरुद्ध आई.सी. की धारा 498ए के तहत प्रकरण अन्वेषणीय होने पर उसे साधन के अधीन सेवाओं/पदों पर नियुक्ति हेतु पात्र नहीं माना जाना चाहिये।

राजस्व अभियोजन अधीनस्थ सेवा नियम 1978 के नियम 13 में वर्तमान नियम नियुक्ति के परमाण परिवर्तित अद्वितीय संबंध में है। इस कारण उनके विस्तारपूर्वक विवेचना की आवश्यकता प्रतीत नहीं होती है।

इस प्रकार उपयोगिता विवेचनानुसार मानसीय उच्चतम न्यायालय द्वारा दिये गये मार्गदर्शन के प्रकाश में पूर्व निम्न पद पर नियुक्ति को देखते हुए नियुक्ति को सहायक अभियोजन अधिकारी के पद पर नियुक्ति हेतु अन्वेषण पात्र नहीं माना जाता है।

प्रतिलिपि:-
1. श्री जितेन्द्र कुमार बैराज पुनः श्री हेतुराम निवासी गार्ड नं 19, रावतसार तहसील रावतसार जिला हनुमानगढ़।
2. रक्षित पदायली।

(समेत कुमार शामी)
निदेशक अभियोजन
राजस्थान, जयपुर

18/9/18

(समेत कुमार शामी)
निदेशक अभियोजन
राजस्थान, जयपुर

18/9/18