

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(C) No.1009/2008**

% Date of Decision: 28 February, 2008

SH. RAMASHISH Petitioner
! Through: Mr. S.N. Gupta, Advocate

versus

\$ GOVT. OF NCT OF DELHI & ORS. Respondents
^ Through: Ms. Jyoti Singh, Advocate
with Mr. Ankur Chhibber, Advocate

CORAM:

* **HON'BLE MR.JUSTICE MANMOHAN SARIN**
* **HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? yes
3. Whether the judgment should be reported in the Digest? yes

Per Veena Birbal, J.

1. By this writ petition, petitioner assails the order dated 5.4.2007, passed by Central Administrative Tribunal, hereinafter referred to as "The Tribunal", dismissing O.A. No.2257/2006, by which the petitioner had challenged order dated 2.2.2005 passed by Disciplinary Authority dismissing him from service and order dated 3.3.3005 passed by appellate authority upholding the punishment. Petitioner has also challenged the order dated 30.7.2007 of Tribunal by which his application seeking review of aforesaid order was also dismissed.

2. Facts necessary for the disposal of the present writ petition are that the petitioner was appointed as a chowkidar with respondent on 10.4.1980. He was regularised in services on 10.4.85 as chowkidar. In the year 1986, he gave representation to the respondent for promotion to the post of peon as his junior Shri R.S. Pandey was promoted. When no action was taken, he filed O.A. No.710/1998 before the Tribunal for promotion to the post of peon. In the said case Government took a stand that as the petitioner had failed to furnish the requisite certificate of having passed 8th class, despite being given a specific memorandum, his case was not considered for promotion. The Tribunal vide order dated 19.7.2001 disposed of the said O.A. with a direction that in case the petitioner furnishes 8th class pass certificate even at that stage, he be considered for appointment as peon/daftari in accordance with rules and instructions.

3. The case of the petitioner is that when process for recruitment to the post of peon was going on, petitioner appeared in class 10th examination and cleared it. It is further the case of petitioner that he received the 10th class certificate and school leaving certificate by post and had accordingly vide letter dated 23.12.1997 submitted his name for the post of Lab Assistant. After petitioner submitted certificate, respondent found it to be forged and suspended him

from services on 9.9.2000. A departmental enquiry was conducted wherein petitioner was found guilty of producing the forged certificate and ultimately, he was dismissed from service vide order dated 2.2.2005.

4. Petitioner filed an appeal before the appellate Authority, the said authority rejected the same vide order dated 3.8.2005. Aggrieved with the order of dismissal, he filed O.A. No.2257/2006 before the Tribunal which was dismissed vide order dated 5.4.2007. An application for review of order dated 5.4.2007 was also dismissed vide order dated 30th July. 2007. Aggrieved with the said orders i.e. 5.4.2007 and 30.7.2007, present writ petition is filed.

5. Learned counsel for the petitioner has contended that no unlawful gain had been obtained by petitioner by submission of the alleged forged documents, his dismissal from service was totally unjustified. It is contended that in the facts and circumstances of case punishment of dismissal from service is disproportionate and excessive.

6. On the other hand, learned counsel for the respondent has submitted that petitioner who was a government servant has been found guilty of submitting a forged document with ulterior motives and was rightly dismissed from service. Learned counsel further

submitted that petitioner deserves no leniency and learned Tribunal rightly dismissed his OA. It is submitted that no case for interference is made out and present petition is liable to be dismissed.

7. It is not disputed that petitioner had submitted the document which purports to be a copy of mark sheet of having passed 10th class which led to disciplinary proceedings. Perusal of record shows that genuineness of mark sheet of class 10th from the concerned board was got verified and Joint Secretary (Vigilance), Bihar School Examination, Patna vide letter dated 20.08.1998 informed that petitioner had appeared in exam but was declared “failed” and mark sheet submitted by him was a forged one. Accordingly proceedings under Section 14 of CCS(CCA) Rules 1965 were initiated for producing forged mark sheet and full fledged enquiry was held. Petitioner duly participated in the departmental enquiry. Inquiry officer held that the charges against the petitioner stand established which finding has been accepted by the Disciplinary Authority and by Appellate Authority.

8. Material on record shows that the petitioner has attempted to get recruited to the post of Lab Assistant by furnishing a forged document. Mere fact that his attempt did not succeed and result in

actual gain is not of much consequence. Petitioner being a government servant was required to exercise and maintain integrity and honesty. It is defiance to say that no benefit has been taken by him by furnishing forged mark sheet of Class X.

9. We are not able to concur with the counsel for the petitioner that in the facts and circumstances punishment of dismissal is disproportionate. It has been held by Supreme Court in catena of judgments that scope of interference with punishment awarded by disciplinary authority is very limited. Reference may be made to the following judgments of Supreme Court in **Mithilesh Singh vs. Union of India & Ors.** (2003) 3 SCC 309; **Chairman and Managing Director United Commercial Bank and Ors. vs. P C Kakkar** (2003) 4 SCC 364; **Regional Manager, UP SRTC, Etawah & Ors. vs. Hoti Lal & Anr.** (2003) 3 SCC 605 and **V Ramana vs. AP SRTC & Ors.** (2005) 7 SCC 338 wherein it has been emphasised that unless the quantum of punishment shocks the conscience of the Court/Tribunal in the sense that no administrative authority under facts and circumstances could have imposed such a punishment, no case for interference by court/tribunal is made out.

10. In the facts and circumstances of the case punishment

imposed by the disciplinary authorities cannot be considered as irrational or shockingly disproportionate. The post of Peon where he was working at the relevant time is a responsible one. By filing forged document petitioner has lost trust of the respondent.

Accordingly writ petition is dismissed.

Veena Birbal, J.

Manmohan Sarin, J.

February 28 ,2008
srb/kks/mv