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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No.6179/2011**Date of Decision: 01st October, 2012**

YOGENDRA SINGH PETITIONER
Through Mr.S.S. Pandey, Adv.

Versus

UNION OF INDIA & ORS RESPONDENTS
Through Ms.Barkha Babbar, Adv.

CORAM:**HON'BLE MS. JUSTICE GITA MITTAL****HON'BLE MR. JUSTICE J.R. MIDHA****GITA MITTAL (Oral)**

1. The petitioner participated in the Army Open Recruitment Rally held at Govindgarh, Rajasthan from 26th May, 2009 to 30th May, 2009 for the post of Soldier Technical. The petitioner successfully undertook the Common Entrance Examination; physical as well as medical tests and on successful completion of the physical and medical tests, the petitioner was provisionally selected for enrolment as per the result declared on 28th August, 2009.

2. As a next step of the recruitment process, on 1st September, 2009, the successful candidates were instructed to deposit original documents with three attested copies of educational certificate and other documents.

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3. In terms of the requirements of the respondents, on 3rd September, 2009, the petitioner had submitted the requisite certificates duly attested by Sri Balram Bharti who was a Lecturer of English Literature from Swargiya Sri Ramjilal Swarankar Rajkiya Ucch Madhyamik Vidhyalaya, Kumher, Bharatpur, Rajasthan including the original character certificate which was issued to him by the tehsildar of his village. We are informed that this was submitted on the last date of the recruitment.

4. The petitioner was required by the respondents not only to file the original character certificate but even attested copies thereof signed by the tehsildar concerned. The petitioner has submitted that he was unaware of the requirement of attested photocopies. The photocopies were handed over to one Shri Manoj Kumar for securing the attestation. The attestation on the photocopy was got effected by Manoj Kumar.

5. By an order passed on 7th November, 2009, the respondents cancelled the candidature of the petitioner on the ground of wrongful use of seal of the Principal of the Government High Secondary School, Karer, Bharatpur and for forging of his signatures thereon.

6. It appears that the petitioner assailed the rejection of his candidature by way of an appeal before the Armed Forces Tribunal. This appeal being OA No.181/2010 was disposed of by the Armed Forces Tribunal by an order passed on 8th December, 2009 directing

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the Recruitment Directorate to re-examine all the certificates with the originals and if the said Directorate found that they were authentic, then the said Directorate could take appropriate action in the matter.

7. The respondents thereafter passed the impugned order dated 17th March, 2011 holding that on a scrutiny of the documents submitted by the petitioner, it was found that the character certificate deposited by the petitioner had the fake stamp and forged signatures of the Headmaster, Government Senior Secondary School, Kaurer, Bharatpur, Rajasthan. The respondents were of the view that the petitioner had used 'unfair means to attest the documents submitted at the time of recruitment' and consequently cancelled his candidature for enrolment.

8. The petitioner has assailed the order dated 17th March, 2011 before this court by way of the present writ petition. When the writ petition came to be listed on 25th August, 2011, this court directed the respondents to produce the character certificate on which it relies, being the one as per the respondents, which was furnished at the time when the petitioner was offered employment.

9. On examination of the documents on 23rd September, 2011 on which date the respondents were directed to file a counter affidavit, the court had noticed the following facts in the order:-

"1. From the record produced it appears that the petitioner had with him an original character certificate issued by the Tehsildar of his village and not the Sarpanch as recorded in the order dated

25.8.2011.

2. It was the last date for recruitment. The requirement of the department was not only to file the original character certificate but even attested copies thereof.

3. According to the petitioner when the department wanted attested copies of the original, one Manoj Kumar a follow participant at the selection process and a resident of the same village offered to go to the school and this he offered to do not only for the petitioner but for a few other boys. Learned counsel states that the petitioner bona-fide believed Manoj Kumar to be a philanthropist and accepted the offer of Manoj Kumar to render the errand. According to the petitioner, it appears that Manoj Kumar who had the seal of the Head Master of the Government Senior Secondary School, Koror, Bharatpur affixed the seal on the photocopies and forged thereon the signatures of the Head Master of the School. Counsel highlights that if the original is genuine, why should the petitioner procure a fake attested copy.

4. Learned counsel for the petitioner states that the petitioner is a victim of circumstances and has done no wrong.

5. Let a counter affidavit be filed keeping in view the facts noted hereinabove as projected by learned counsel for the petitioner."

10. The counter affidavit which has been filed has merely reiterated the stand which was taken earlier by the respondents. In this background, by an order passed by us on 3rd August, 2012, we had issued a direction to the respondents to verify the correctness and authenticity of the original character certificate which was submitted by the petitioner. The respondents were also directed to compare the photocopies which was submitted by the petitioner with the original document.

11. Ms. Barkha Babbar, learned counsel appearing for the

respondents has placed before this court a copy of the letter dated 27th August, 2012 received by her from the Army Recruiting Office, Alwar. In para 4, the Army Recruiting Office has informed the counsel that the "original document apparently is in order", the photocopy is stated to have been attested through a fake rubber stamp and affixing the forged signatures of the Headmaster of the School.

12. We find that while passing the order dated 8th December, 2009, the Armed Forces Tribunal was also not impressed with this stand taken by the respondents and had directed the Recruitment Directorate to re-examine all the certificates with the originals and if the said Directorate found they were authentic then the Directorate was directed to take appropriate action in the matter. The direction which was given by the Armed Forces Tribunal was thus clear and the respondents were required to verify the authenticity of the original documents as well as the correctness of the photocopies. Inherent in the direction was that the Recruitment Directorate would not be influenced by the rubber stamp or the attestation on the documents.

13. The original record has been produced by the respondents before us. It is on this record that the scrutiny of the documents submitted by the candidates was effected on 8th September, 2009 when the respondents found that the documents produced by another candidate, one Manoj Singh, resident of Village and Post Office Kaurer, Police Station and District Deeg, District Bharatpur, Rajasthan to be

doubtful as to the authenticity of the seal and the signature of attesting officer. Inquiry was conducted from Manoj Singh who admitted that he had forged the signatures on all copies produced by him and he had used the rubber stamp in the name of Pradhan Acharya, Rajasthan Madhamik Vidhlya, Kaurer, Bharatpur, Rajasthan. The respondents had confiscated fake rubber stamp found in the possession of Manoj Kumar.

14. It is further submitted that while checking the attested copy of document produced by the petitioner, the respondents found that the same stamp and signature as affixed on the documents of Manoj Singh featured on the photocopy of the character certificate deposited by the petitioner.

15. The petitioner has rendered the explanation before this court that he had learnt of the requirement of the attested photocopies on the last date when one Manoj Kumar who was a fellow participant at the selection process who had offered to get the photocopy attested not only for the petitioner but also for few other boys. The petitioner bona fide believed Manoj Kumar to be a philanthropist and accepted his offer to run the errand. The above narration shows that the respondents have also verified this fact in the investigation.

16. Even in the counter affidavit wherein the respondents have stated that while scrutinizing the documents of one Manoj Singh, a doubt was raised as to the authenticity of the signature of the attesting

officer on certificates produced by him. In the inquiry conducted by the respondents, this candidate has conceded that he had forged the signatures and stamp on the documents. In the record placed before us, the respondents have noted that the stamp and signatures affixed on the photocopy of the character certificate deposited by the petitioner, was the same as that which was affixed on the certificates of Manoj Kumar. The respondents have recovered and seized the seal from Manoj Kumar who admitted his guilt in the matter. In this background, there appears to be substance in the explanation advanced by the petitioner before this court.

17. As per the records of the respondents, the petitioner was a resident of village Bhartai, Post Usrani, Police Station and Tehsil Kumher, District Bharatpur, Rajasthan and had no connection with village Kaurer. The stamp which was found on the document/photocopy which had been submitted by the petitioner, was of the Rajasthan Madhamik Vidhyalaya, Kaurer, Bharatpur, Rajasthan to which Manoj Singh belonged. The petitioner had no connection with Kaurer.

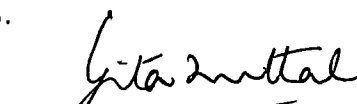
18. The respondents have duly verified the original certificates submitted by the petitioner. It is undisputed that the photocopies which have been submitted by the petitioner to the respondents are true photocopies of the same originals. The attestation and signatures on the photocopy have admittedly not been affixed by the petitioner.

19. From the above narration, it would be evident that no benefit would enure to the petitioner by fabricating the attestation on the photocopy. The certificate which has been submitted by him in original has been found to be authentic. The photocopies have also been found to be true photocopy of the original. The petitioner would, in the given circumstances, be entitled to benefit of doubt.

20. On 23rd September, 2011, this court had noticed the petitioner's submission that he was the victim of circumstances and had done no wrong. We find substance in the submission in view of the above discussion.

21. In view of the above, we direct as follows:-

- (i) the petitioner is permitted to submit fresh attested copies of the character certificate in accordance with prescribed procedure within a period of two weeks from today.
- (ii) the respondents shall issue a fresh selection letter for enrolment to the petitioner within a period of eight weeks thereafter.
- (iii) the petitioner shall be permitted to join training in the next batch.
- (iv) this writ petition is allowed in the above terms.


(GITA MITTAL)
JUDGE

(J.R. MIDHA)
JUDGE

OCTOBER 01, 2012/aa