

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No.799 of 2016

Md. Wahidur Rahman, aged about 31 years. S/o Md.
Fazur Rahaman, Kwakta Village, P.O & P.S Moirang,
Bishnupur District, Manipur

....Petitioner

-Versus-

1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, Shastri Bhawan, New Delhi – 110001.
2. The Director General of Police, CRPF, Head Quarters, CGO Complex, New Delhi – 110003.
3. The Dy. Inspector General of Police, CRPF, Pulwama, Srinagar.
4. The Inspector General of Police, CRPF, Langjing Group Centre, Langjing, Imphal, Manipur

..... Respondents

**BEFORE
HON'BLE MR. JUSTICE AHANTHEMBIMOL SINGH**

For the Petitioner :: Mr. K. Roshan, Advocate,

For the Respondents:: Mr. Kh. Samarjit, DSGI
Mr. Nongdamba, Advocate

Dates of hearing :: 14-03-2023

Date of judgment :: 18-04-2023

JUDGMENT AND ORDER

Heard Mr. K. Roshan, learned counsel appearing for the petitioner and Mr. Kh. Samarjit, learned DSGI assisted by Mr. Nongdamba, learned counsel appearing for the respondents.

[1] The present writ petition had been filed for quashing and setting aside the orders dated 25-10-2012 imposing punishment of removal from service to the petitioner, order dated 28-03-2014 rejecting the appeal preferred by the petitioner against the order of his termination and order dated – May, 2016 rejecting the revision petition preferred by the petitioner coupled with a prayer for directing the respondents to re-instate/take back the petitioner in service with all consequential benefits.

[2] The brief facts of the present case is that, the petitioner was enlisted in the CRPF on 28-11-2005 as Constable, General Duty (CT/GD) and after completion of his basic training at Lidhra Camp, Jalandhar (Punjab), he was taken on the strength of 183 Bn., CRPF and he performed his duties as a CRPF personnel till his removal from service w.e.f, 25-10-2012.

[3] While the petitioner was serving as CRPF personnel, the competent authorities of the CRPF carried out a verification process of the educational certificates in respect of all forces recruited during the last 5 (five) years including the case of the petitioner. During the process of verification of the educational certificates in respect of the petitioner, the Deputy

Director (Evaluation), National Institute of Open Schooling (NIOS) wrote a letter dated 27-04-2010 to the Deputy Commandant (ADM), Office of the DIGP, Group Centre, CRPF, Srinagar (J & K) stating, inter alia, that the photo copy of the petitioner's certificate sent for verification was not genuine and appeared to be tampered/fake, inasmuch as, the date of birth recorded in the certificate of the petitioner which was sent for verification did not match with the date of birth of the petitioner recorded in the record maintained by the NIOS. In the said letter, the authorities of the CRPF were also requested to send the original documents for any additional comments. Subsequently, after verification of the original mark statement of the petitioner, the Deputy Director (Evaluation), NIOS sent another letter dated 18-10-2011 to the Commandant, 183 Bn. CRPF, stating that the earlier verification report dated 27-04-2010 in respect of the petitioner was correct as per the record maintained by the NIOS and that the original document sent for verification was tampered with.

[4] On the basis of the verification report sent by the authorities of the NIOS, a departmental enquiry was initiated against the petitioner by issuing a memorandum dated 13-02-2012 framing the following two charges against the petitioner :-

"Article -1

That force No. 055154391 Sepoy/G.D Mohammad Wahidur Rehmand working on the post of Sepoy/GD in 183 Battalion and being member of Central reserve Police force, committed misconduct/misbehavior under section 11 (1) of Central reserve police force Act, 1949, wherein, the personnel filed fake certificate at the time of recruitment in C.R.P.F and was recruited. The said certificate was got verified by the education board in connection with education No. A/04 023913 affiliated with National MuktaVidyalayShikshaSansthan District TautamBudh Nagar (U.P) and the certificate filed by the personnel was found fake.

Article – 2

That at the time of recruitment in the force, your date of birth is 07-02-1985 according to the educational certificate produced by you and your age was 20 years 09 months 21 days but according to the verification report obtained by this office your date of birth is marked 04-05-1988 and accordingly at the time of recruitment your age comes to 17 years 5 months 24 days. It appears from it that for the purpose of recruitment in the force, you depended on false educational certificate which is punishable offence under Section 11 (1) of C.R.P.F Act, 1949”

[5] After completion of the departmental enquiry held against the petitioner and on the basis of the report submitted by the Enquiry Officer, the Commandant, 183 Bn, CRPF, Pulwama issued an order dated 25-10-2010 imposing punishment of removal from service upon the petitioner w.e.f., 25-10-2012. Having been aggrieved, the petitioner preferred an appeal to the DIGP, Group Centre, CRPF, Srinagar (J&K) on 12-11-2012, however, the said appeal was rejected by the appellate authority by issuing an order dated 28-03-2014. Having been not satisfied, the petitioner again preferred a revision petition to the IGP, CRPF, Srinagar Sector, J&K on 27-01-2016. The said revision was also dismissed by an order dated – May, 2016 issued by the IGP, CRPF, Srinagar Sector (J&K). Having been aggrieved, the petitioner approached this Court by filing the present writ petition for redressing his grievance.

[6] Mr. K. Roshan, learned counsel appearing for the petitioner submitted that the correct date of birth of the petitioner is 07-02-1985 and not 04-05-1988. The correct date of birth of the petitioner is recorded in his birth certificate, all his educational certificates/documents and other official documents. The learned counsel also submitted that in the identity card issued to the petitioner by the Regional Director, NIOS, while

studying Secondary course, his date of birth is recorded as 07-02-1985. It has also been submitted that at the time of declaration of the secondary examination results of NIOS in 2004, the date of birth of the petitioner is recorded as 07-02-1985. In the original mark statement issued in favor of the petitioner for passing Secondary School Examination, the provisional certificate for passing Secondary School Examination and Migration certificate – cum- transfer certificate issued in favor of the petitioner on 28-07-2004, the correct date of birth of the petitioner i.e., 07-02-1985 is recorded.

[7] The learned counsel appearing for the petitioner submitted that at the time of submitting application forms for the post of Constable (GD) in CRPF, the petitioner gave his date of birth as 07-02-1985 and also enclosed a copy of the migration certificate issued by the NIOS after passing the Secondary School Examination, the mark statement of passing Secondary School Examination and his birth certificate, wherein, his date of birth is recorded as 07-02-1985 and that the petitioner never make any alteration or tampered with his date of birth. It has also been submitted that the petitioner simply submitted his educational certificates/documents issued by the NIOS in testimony of his educational qualifications and date of birth and there is no question of making any alteration or tampering with his date of birth. The learned counsel further submitted that in the relevant records maintained by the NIOS, the concerned authorities have wrongly recorded the petitioner's date of birth as 04-05-1988 instead of the correct date of birth i.e., 07-02-1985 and accordingly, at the time of verification process, the authorities of NIOS gave the report that the mark statement of

the petitioner was not original and appeared to be tampered/fake. The learned counsel vehemently submitted that when the petitioner approached the concerned authorities of the NIOS for correction of his date of birth recorded in the official records maintained by the NIOS by submitting an application along with all supporting documents, such as his identity card, migration certificate, provisional certificate, result of the secondary examination, birth certificate etc., wherein, the petitioner's date of birth is recorded as 07-02-1985, the authorities of the NIOS corrected the date of birth of the petitioner wrongly entered in the records maintained by the NIOS and thereafter, issued a fresh certificate for having pass the secondary examination held in the month of June, 2004 in favor of the petitioner on 28-06-2012. The learned counsel accordingly submitted that the reports given by the Deputy Director (Evaluation), NIOS on 27-04-2010 and 18-10-2011 at the time of verification process to the effect that the mark statement in respect of the petitioner was not genuine and appeared to be tampered/fake was given on the basis of the wrong entry of the date of birth of the petitioner in the record maintained by the institute and not on the basis of any tampering or alteration made by the petitioner in his mark statement and as such, the petitioner cannot be penalized for the mistake committed by the authorities of the NIOS and he is entitled to re-instatement in his service along with all consequential benefits.

[8] Mr. Kh. Samarjit, learned DSGI appearing for the respondents submitted that keeping in view instances of large number of enlistment in the CRPF on the basis of fake

educational certificates and as per existing instructions issued by the higher authorities, the Group Centre, CRPF, Srinagar (J&K) carried out verification of educational certificates in respect of all force personnel recruited during the last five years including the case of the petitioner. In the said verification process of his secondary mark statement, the Deputy Director (Evaluation), NIOS wrote a letter dated 27-04-2010 stating that the date of birth recorded in the mark statement submitted by the petitioner and his date of birth recorded in the records maintained by the institute does not tally and that the said mark statement of the petitioner appeared to be tampered/fake and also requesting for sending the original documents for any additional comments. On the basis of the said letter, the authorities of the CRPF send the original mark statement of the petitioner for verification and after carrying out verification process, the Deputy Direction (Evaluation), NIOS again wrote a letter dated 18-10-2011 stating that the earlier report sent by him was correct as per their record and that the original document sent for verification was tampered with.

[9] The learned DSGI submitted that on the basis of such report submitted by the Deputy Director (Evaluation), NIOS, the authorities of the CRPF took up a departmental proceeding against the petitioner and after completion of the departmental proceedings and on the basis of the report submitted by the Enquiry Officer, the competent authority of the CRPF issued the impugned orders imposing upon the petitioner punishment of removal from service w.e.f., 25-10-2012.

[10] Mr. Kh. Samarjit, learned DSGI draw the attention of this Court to a letter dated 20-05-2013 of the Deputy Director,

NIOS addressed to the office of the DIGP, CRPF, Srinagar (South) which reads as under:-

"E. No: 221.01/4-7/NIOS/SSS/ADM/Corr./2012/1165

Dated 20th May, 2013

To,

Mr. P.P. Pradeep Kumar-21
Office of the Deputy Inspector General of Police,
Central Reserve Police Force,
Srinagar (South)
Jammu & Kashmir-190001

Sub: Verification of Secondary Marks Statement in respect of MD. Wahidur Rahman bearing Roll No. A12422240.

Sir,

Kindly refer to your letter no. A. XIII.183/2012-13-EC.III dated 14th March, 2013 of the subject cited above. It is to inform you that candidate Wahidur Rahman was admitted in secondary course vide enrolment no. A12422240 (91124202240) in the year 2002 and passed in the year 2004. Details are as under:-

1. At the time of his admission, the candidate filled up admission form wherein he has indicated/filled up his DOB as 04/05/1988 and in support of this he has given the documents as required.
2. Candidate was declared pass in the year 2004 and was awarded certificate showing his DOB as 04/05/1988.
3. After a gap of 08 years the candidate applied for correction of his DOB from 04/05/1988 to 07/02/1985 on the basis of original Date of Birth Certificate issued on dated 27/08/1990 by the Govt. of Manipur.
4. The case of his correction of his DOB was examined at NIOS Regional center Guwahati and recommended for correction in DOB.
5. The Competent Authority of NIOS considered his case of correction in DOB and approved correction for DOB from 04/05/1988 to 07/02/1985 on the basis of original Date of Birth certificate issued on dated 27/08/1990.
6. Accordingly, he was issued revised certificate no:18074 shown his correct DOB on dated 02/07/2012 and dispatched to our Regional Center, Guwahati.

Thanking you,

Yours faithfully,

(S.K Anand)
Deputy Director"

[11] The learned DSGI submitted that taking into consideration the above quoted letter of the Deputy Director, NIOS, the authorities of the CRPF rejected the statutory appeal as well as the revision petition filed by the petitioner and that there is no ground whatsoever for interfering with the impugned orders and for granting relief sought for by the petitioner. The learned DSGI accordingly prays for dismissing the present writ petition as being devoid of merit.

[12] I have heard the rival arguments advanced by the learned counsel appearing for the parties at length and also carefully examined the materials available on record.

The core issue which needs to be considered by this Court in the present writ petition is whether there was actually any alteration or tampering made in the secondary mark statement of the petitioner especially in respect of the date of birth of the petitioner or whether the reports of the Deputy Director (Evaluation), NIOS under his letter dated 27-04-2010 and 18-10-2011 to the effect that the said secondary mark statement of the petitioner appeared to be tampered/fake was given only on the basis of the wrong entry of the date of birth of the petitioner in the records maintained by the authorities of the NIOS.

[13] I have carefully examined the identity card of the petitioner issued by the Regional Director, NIOS while studying secondary course and in the said identity card, the date of birth of the petitioner is recorded as 07-02-1985. In the secondary examination result of the NIOS in respect of the petitioner, his date of birth is also recorded as 07-02-1985. So also in the migration certificate and provisional certificate issued on 28-07-

2004 in favor of the petitioner after passing the secondary school examination held in the month of June, 2004, the petitioner's date of birth is recorded as 07-02-1985. In the petitioner's original mark statement of passing the secondary school examination and in the birth certificate issued in favor of the petitioner, his date of birth is recorded as 07-02-1985. It is not the case of the respondents that the petitioner alter or tamper his date of birth recorded in his original secondary mark statement or that the said mark statement is not found to be original. In fact, the case of the respondents is that in the process of verification of his original mark statement, the competent authorities had given the report that the date of birth of the petitioner as recorded in his mark statement does not tally with the date of birth recorded in the records maintained by the NIOS and that the authorities of the NIOS has given a report that the said secondary mark statement of the petitioner was not genuine and appeared to be tampered/fake. Only on the basis of such report, the service of the petitioner was terminated.

[14] On careful examination of the materials available on record, this Court is of the considered view that at the time of verification of the secondary mark statement of the petitioner, the concerned authorities of the NIOS did not take into consideration the result of the secondary examination held in the month of June, 2004 wherein, the date of birth of the petitioner is recorded as 07-02-1985. The authorities also did not take into consideration the identity card of the petitioner issued by the Regional Director, NIOS while studying secondary course, the migration certificate issued on 28-07-2004 after passing the secondary school examination, the provisional

certificate of the petitioner issued on 28-07-2004 after passing the secondary school examination as well as the birth certificate of the petitioner wherein, the date of birth of the petitioner is recorded as 07-02-1985. In my considered view, the Deputy Director (Evaluation), NIOS gave the report under his letters dated 27-04-2010 and 18-10-2011 that the said secondary mark statement of the petitioner was not genuine and appeared to be tampered/fake only on the basis of wrong entry of the date of birth of the petitioner in the records maintained by the NIOS. There is also no finding from the authorities to the effect that the aforesaid identity card of the petitioner, the result sheet of the secondary school examination of the NIOS held in the month of June, 2004, the migration certificate issued in favor of the petitioner on 28-07-2004, the provisional certificate issued in favor of the petitioner on 28-07-2004, the birth certificate of the petitioner, wherein the date of birth of the petitioner is recorded as 07-02-1985, are not genuine and that all these documents are fake documents.

[15] In view of the above, this Court came to the conclusion that the report of the Deputy Director (Evaluation), NIOS under his letters dated 27-04-2010 and 18-10-2011 was given only on the basis of the wrong entry of the date of birth of the petitioner in the records maintained by the NIOS.

It is also on record that the wrong entry of the date of birth of the petitioner in the records maintained by the NIOS had also been subsequently corrected by recording the petitioner's correct date of birth as 07-02-1985 instead of 04-05-1988 as reflected in the letter dated 20-05-2013 of the Deputy Director, NIOS and thereafter, a new mark statement/certificate

of passing the secondary examination held in the month of June, 2004 had been issued in favor of the petitioner. After such correction of the record maintained by the NIOS, especially the wrong entry of the date of birth of the petitioner, there is actually no ground to support the claim that the Secondary mark statement of the petitioner is not genuine and appeared to be tampered/fake.

[16] In view of the above, this Court is of the considered view that the petitioner has been wrongly penalized for no fault on his part and for the mistake committed by the authorities of the NIOS. Accordingly, this Court is of the considered view that the penalty imposed upon the petitioner under the impugned orders is not sustainable in the eyes of law.

[17] In view of the facts and circumstances of the present case and for the findings and reasons given herein above, the present writ petition is disposed of with the following directions :-

- (i) The respondents or the concerned authorities of the CRPF are directed to re-verify the genuineness of the secondary mark statement of the petitioner with the concerned authorities of the NIOS or any such authorities more particularly with reference to the date of birth of the petitioner by taking into consideration all the relevant documents of the petitioner and to complete the process of re-verification within a period of one month from the date of receipt of a copy of this order.
- (ii) After completion of the re-verification process within the stipulated period, if it is found that there is no variance or doubt about the genuineness of the

secondary mark statement of the petitioner more particularly, the date of birth of the petitioner, the impugned orders dated 25-10-2012, 28-03-2014 and – 05, 2016 shall be cancelled and the petitioner shall be re-instated in service immediately w.e.f., the date of his termination i.e., 25-10-2012 with all consequential service benefits except back wages.

With the aforesaid directions, the present writ petition is disposed of. Parties are to bear their own cost.

JUDGE

Kim

(FR/NFR)