

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.1079 of 2022**

Sri Sanjoy Das, son of late Suresh Chandra Das, resident of Madhyapara, P.O.
& P.S- R.K. Pur, District- Gomati Tripura.

..... Petitioner(s)

V E R S U S

1. The State of Tripura represented by the Secretary, Directorate of Secondary Education, Education(School) Department, Siksha Bhawan, Agartala, District- West Tripura.
2. The Secretary, Directorate of Secondary Education, Education (School) Department, Siksha Bhawan, Agartala, District- West Tripura.
3. The Director of Secondary Education, Education (School) Department, Siksha Bhawan, Agartala, District- West Tripura.
4. Teachers Recruitment Board, Tripura, represented by its Member Secretary, Government of Tripura Education (School) Department, Siksha Bhawan, Agartala District- West Tripura.
5. Bundelkhand University, represented by its Registrar Kanpur, Jhansi, Uttar Pradesh, Pin-284128.

.....Respondent(s)

For Petitioner(s) : Mr. Kundan Pandey, Advocate.

For Respondent(s) : Mr. D. Sharma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment : 19th May, 2023.

Whether fit for reporting : YES.

JUDGMENT & ORDER(ORAL)

Heard learned counsel for the parties.

[2] Petitioner's appointment to the post of Graduate Teacher on 04.11.2019 (Annexure-5) after a proper recruitment test was cancelled on 15.02.2020 (Annexure-7) on the ground that he has produced fake mark-

sheets of M.Sc. Zoology and B.Ed. from Bundelkhand University. The decision to cancel his appointment was made during the verification exercise from the Bundelkhand University on the basis of a letter dated 07.01.2020 issued by the said university. Meanwhile, petitioner was also prosecuted for the offences punishable under Sections 468 and 471 of IPC in PRC(WP) No.96 of 2020 where he has finally been acquitted of the charges by the Court of learned Judicial Magistrate 1st Class (Court No.3), Udaipur, Gomati Tripura vide judgment dated 17.08.2022 as the prosecution had not been able to prove the charges beyond reasonable doubt. Thereafter, the petitioner has approached the competent authority/respondent No.3 to issue fresh offer of appointment. However, when his representation remained unheeded, he has approached this Court for appropriate direction upon the respondents to issue fresh appointment letter to the post of Graduate Teacher after quashing of the cancellation of his appointment vide memo dated 15.02.2020 (Annexure-7).

[3] Counter-affidavit has been filed by the respondents No.1 to 4 sworn by the Under Secretary, Government of Tripura, under Secondary Education Department. The facts leading to cancellation of the appointment of the petitioner on the basis of the letter of the Bundelkhand University dated 07.01.2020 during course of verification has been reiterated to defend their action. However, at paragraph 12, the following statement has also been made :

“That, in regard to the statements made in paragraph 6 of the writ petition, it is stated that in the judgment dated 17.08.2022 passed in PRC(WP) 96 of 2020 by the Ld. Judicial Magistrate 1st Class, Udaipur, Gomati Tripura opined in paragraph No.18 that “the foregoing analysis and discussion leads to inevitable conclusion that prosecution has miserably failed to prove its case beyond reasonable doubts and the accused from the liability of the case.

And the learned court was pleased to acquitted the petitioner of the offence punishable under Section 468/471 of IPC and the petitioner was set at liberty. The acquittal from the criminal charge does not establish the genuineness of the mark sheets which were described as ‘FAKE’ by the university concerned vide letter dated 07.01.2020 (Annexure-R/1 supra).

It is submitted that the representation of the petitioner was received by respondent No.3. The decision regarding the representation cannot be taken as the Examination Controller, Bundelkhand University, Jhansi, Uttar Pradesh has given different opinions in two different communications dated 07.01.2020 (Annexure-R/1 supra) and 08.04.2022 (Annexure-12 of writ petition). In the communication dated 07.01.2020, the Examination Controller, Bundelkhand University, Jhansi, Uttar Pradesh described the mark sheets of the Master of Science (M.Sc) in Zoology and Bachelor of Education (B.Ed) of the petitioner as ‘FAKE’ but in the communication dated 08.04.2022 the same mark sheets were described as genuine which was obtained by the petitioner as a reply under RTI Act, 2005. Now it is the concerned university (respondent No.3) that conferred the degrees of Master of Science (M.Sc) in Zoology and Bachelor of Education (B.Ed) to the petitioner to clarify whether the degrees are genuine or not. In view of the above, the Controller of Examinations, Bundelkhand University, Jhansi, Uttar Pradesh has been communicated vide letter dated 24.01.2023. A copy of the letter dated 24.01.2023 is annexed and marked as Annexure-R/3.

If the genuineness of the mark sheets of the Master of Science (M.Sc) in Zoology and the Bachelor of Education (B.Ed) of the petitioner is established beyond doubt, the State respondents will have no counter-argument to cancel the Memo dated 15.02.2020 (Annexure-7 of writ petition) and issue posting order. Otherwise, the petitioner has no right to claim to consider him for appointment to the post of Graduate Teacher and in that case, the State-respondents deny and dispute the claim of the petitioner.”

Respondent No.5, Bundelkhand University has not entered appearance despite service of notice.

[4] In these circumstances, learned counsel for the petitioner submits that the claim of the petitioner for reinstatement or fresh appointment after being acquitted for the same charges is not being

considered by the competent authority/respondent No.3. Even the respondents admit that in the subsequent communication dated 08.04.2022 which was obtained by the petitioner under RTI Act, 2005 the mark-sheets have been shown as genuine. The text of the letter dated 08.04.2022 (Annexure-12) is extracted hereunder :

“To
SANJOY DAS S/O LT. SURESH CHANDRA DAS
MADHYAPARA, PO + PS- RK PUR
UDAIPUR DIST. GOMATI 799120

Subject :- Verification of Certificate & Mark Sheet.

D/Sir,

With reference to your RTI request Id : R6_9_1_2100660 & R6_9_1_21_00661 dated 17-12-2021 on the subject cited above. The verification of documents for SANJOY DAS, S/O SURESH CHANDRA DAS of M.Sc. bearing enrollment no.11/MSC/68574 roll no.8035575726 and B.Ed. bearing enrollment no.14/BED/71457 roll no.103141660101 is found in the record on the confidential ledger of the university.

The candidate had appeared in the examination from the Bundelkhand University Campus, Jhansi and had cleared the examination with First division.

Yours faithfully

S/d

Assistant Registrar
Bundelkhand University
Jhansi.”

Therefore, petitioner has a valid claim for reinstatement or fresh appointment to the post of Graduate Teacher.

[5] Learned counsel for the respondent-State has relied upon the contents of the counter-affidavit and defended the action. He has also referred to the conditions of appointment letter contained at (Annexure-5) dated 04.11.2019 which specifically stipulated at Clause-5 that if any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material

information, he/she will be liable to remove from service and such other action as the Government may deem necessary. He submits that since the foundation of the appointment of the petitioner was vitiated on grounds of fraud, the impugned action of cancellation of his appointment is not illegal or arbitrary. In such a case, no departmental inquiry was required to be conducted. Therefore, the writ petition may be dismissed.

[6] I have considered the submissions of learned counsel for the parties and taken note of the material facts and pleadings placed from the record. Two things emerge out after the chronology of facts and events narrated hereinabove. (i) That, on the one hand, the same respondent No.5 through letter dated 07.01.2020 had during course of verification exercise given its remark that the M.Sc. Zoology certificate and B.Ed. certificate of the petitioner is fake; (ii) the other communication issued in favour of the petitioner by the same university at (Annexure-12) states that on verification of the documents of the petitioner bearing enrollment no.11/MSC/68574, roll no.8035575726 and B.Ed. bearing enrollment no.14/B.Ed./71457, roll No.103141660101, it has been found from the confidential ledger of the university that the candidate had appeared in the examination from the Bundelkhand University Campus, Jhansi and had cleared the examination with first division. The roll numbers indicated at Annexure-R/1 vide letter dated 07.01.2020 issued by the Exam Controller of Bundelkhand University, Jhansi and confidential letter dated 08.04.2022 issued by the Assistant

Registrar, Bundelkhand University, Jhansi (Annexure-12) are one and same as regards the M.Sc. Zoology course and B.Ed. course. On the other hand, petitioner has been acquitted of the charges having indulged in seeking appointment on the basis of forged document under Sections 468 and 471 of IPC by the learned Court of Chief Judicial Magistrate 1st Class Udaipur, Gomati, Tripura vide judgment dated 17.08.2022 (Annexure-8) of course by giving him the benefit of doubt as the prosecution had failed to prove the charges beyond reasonable doubt.

[7] In such circumstances, this Court is of the view that the respondents should take a fresh decision on the representation of the petitioner, in accordance with law, if necessary after making an inquiry from the concerned Bundelkhand University by deputing an officer duly authorized for that purpose so that the controversy is finally settled.

[8] As such, the writ petition is disposed of with a direction to the competent authority/respondent No.3 to take a decision on the claim of the petitioner for reinstatement/fresh appointment, in accordance with law. Petitioner shall submit a fresh representation duly supported with all facts and documents in support of his claim within a period of 2(two) weeks before the competent authority/respondent No.3. Let such decision be taken within a period of 16(sixteen) weeks from the date of receipt of copy of this order along with the representation. Let it be made clear that this Court has

not made any comments on merits of the case so far as the genuineness of the certificates are concerned.

[9] Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

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