

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2603 of 2015**

Parath Kumar, aged about 40 years, S/o Shri Mahadeo Prasad, R/o Ex. Postal Assistant, Head Post Office, Durg, Tehsil and District Durg, Chhattisgarh.

---- Petitioner

Versus

1. Union of India, through the Secretary, Indian Postal Department, P&T Building, New Delhi 110001
2. The Director, Postal Department of Chhattisgarh, Raipur Circle, P.S. Civil Lines, District Raipur, Chhattisgarh.
3. Senior Superintendent of Post Offices, Durg Division, Civic Centre, Bhilainagar 6, Tehsil and District Durg, Chhattisgarh.
4. Bihar School Examination Board (Senior Secondary) through its Secretary, Budha Marg, Patna Bihar.

---- Respondents

For Petitioner	:	Shri Mateen Siddique, Advocate.
For Respondent No. 1 to 3	:	Shri Narendra Kumar Vyas, Assistant Solicitor General

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board

Per Navin Sinha, Chief Justice

22/07/2015

1. The present application assails order dated 4.4.2013 passed by the Central Administrative Tribunal, Jabalpur Bench (hereinafter called 'the Tribunal') in Original Application No. 784 of 2009. The Tribunal declined to interfere with the order for dismissal from service of the Petitioner dated 10.11.2008 confirmed in appeal on 16.9.2009, on the ground that his intermediate science qualification purported to be from Bihar Intermediate Education Council was fake.

2. Learned Counsel for the Petitioner submitted that the Principal of S.K.Sinha College, Aurangabad was not competent to issue the communication with regard to the mark-sheet issued by Bihar Intermediate Education Council as being allegedly fake and therefore was not competent

also to state that Roll No. 257 in the tabulation register belonged to another candidate and not the Petitioner. It is next submitted that the Petitioner had earlier come to this Court against the impugned order of the Tribunal in Writ Petition (S) No. 1431 of 2013 which was permitted to be withdrawn on 12.6.2013 with liberty to move afresh as the earlier writ petition was wanting in some material particulars. The Petitioner has now come in possession of a certificate dated 26.2.2013 issued by the Section Officer of the Bihar School Examination Board certifying that he passed intermediate science examination in 1988 mentioning his marks and mark-sheet number as true and genuine alongwith his roll code-AUR-Roll No. 257. The Petitioner has also obtained tabulation register from the erstwhile Bihar Intermediate Education Council which shows that he was a genuine student and had appeared in the examination. The controversy has surfaced because he appeared in the capacity of a private student and was not a regular student in the College in question.

3. Learned Counsel for the Respondents submits that the order of the Tribunal is fully reasoned and discussed. The writ court cannot go into disputed question of facts to examine the authenticity of the documents. The order of the Tribunal does not require any interference on facts.

4. We have considered the submissions on behalf of the parties and are satisfied that the order under challenge calls for no interference for more than one reason.

5. The Petitioner was appointed on 21.7.1995 as Postal Assistant. Very apparently, his mark-sheet issued by the then Bihar Intermediate Education Council (the predecessor of the Bihar School Examination Board) was sent immediately for verification to the college which on 10.9.1996 informed that Roll No. 257 for Intermediate Science Examination of 1988 bore the name of one Ghanshyam Das. Notwithstanding the same, the Senior Statistical Officer

of the Council on 5.3.1997 opined that the mark-sheet was genuine. However, the Chairman of the Bihar Intermediate Education Council on 3.11.2004 informed that no student by the name of Petitioner had appeared in the intermediate science examination in 1988 and that action would be taken against the Statistical Officer. A memo of charge was then served on the Petitioner on 1.11.2006. The Enquiry Officer by his report dated 5.7.2007 held that the mark-sheet was forged leading to dismissal, appeal against which was also rejected.

6. Before the Tribunal, the Respondents contended that the tabulation register did not bear the name of Petitioner at serial number 257 but of Ghanshyamdas. The Tribunal also referred to the fact that the Petitioner had full opportunity of defence in the departmental proceedings and did not produce necessary evidence in support of his claim that his mark-sheet was genuine despite opportunity to do so.

7. In the facts of the case, conclusion of the Tribunal that the communication obtained by the Petitioner from the Senior Statistical Officer was questionable cannot be said to be irrational or illogical.

8. The Petitioner was dismissed from service on 10.11.2008. His appeal was also rejected on 16.9.2009. He then filed, according to himself, an incomplete application before the Tribunal in 2009. Despite the same, he did not become wiser and approached this Court also in an incomplete writ application which was dismissed as withdrawn with liberty on 12.6.2013 after which the present writ application has been filed on 8.7.2015. Quite obviously, the post on which Petitioner had been appointed must have been filled up by now and to entertain this writ application, which is apparently barred by gross delay and laches, will only be giving an advantage to the Petitioner for his own lapses. If that were not enough, the Petitioner asks the Court to test the correctness of the order of the Tribunal on basis of a communication dated

26.2.2013 of the Bihar School Examination Board and an extract of tabulation register allegedly of 1998. If the Petitioner did not produce the said document before the Tribunal, we cannot test the order of the Tribunal on the grounds not urged before it and neither is it permissible for the Petitioner to place fresh materials not urged before the Tribunal.

9. Notwithstanding all of the above, the certificate dated 26.2.2013 is questionable in its authenticity as apparently it does not bear any seal of the Board also. Furthermore, it is apparent that this document dated 26.2.2013 of the Section Officer was well available with the Petitioner before the Tribunal dismissed his application on 4.4.2013. If notwithstanding the same, the Petitioner was so casual for the protection of his own interest and did not consider it necessary to place it before the Tribunal, we do not consider it proper to grant him any latitude. The Bihar Intermediate Education Council has long been superseded by Bihar School Examination Board. The tabulation register for the Intermediate Science Examination of 1988 sought to be placed by the Petitioner on his plea now that he was a non-collegiate student is also questionable as it does bear the seal of any authenticity and no reason has been furnished that if the Petitioner now seeks to produce it why did he not do so in the departmental enquiry, the appeal, before the Tribunal and the earlier writ petition.

10. In the entirety of the matter, we find no reason to interfere with the order of the Tribunal . The writ application is dismissed

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE