

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 12716 of 2011

Date of decision: November 4, 2015

Narinder Kaur

..... Petitioner

versus

Guru Nanak Dev University and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present:- Mr. H.S. Brar, Advocate,
for the petitioner.

Mr. Amrit Paul, Advocate,
for respondents no.1 and 2.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

AMOL RATTAN SINGH, J.

The petitioner, who was working as a Library Restorer in the respondent University, has filed this petition seeking that the charge sheet issued to her on 29.04.2010 (annexed as Annexure P-2 with the petition), the report of the Enquiry Officer (Annexure P-5 with the petition), show cause notice dated 25.11.2010 (Annexure P-6 with the petition) and the order dismissing her from service, dated 14.02.2011 (Annexure P-8 with the petition), as also the subsequent order dated 24.06.2011, passed by the appellate authority (Annexure P-13 with the petition), be all quashed, being

against the mandatory provisions of Statute 33 of the University Calendar, Vol.I.

2. Before going to the other facts leading upto the filing of the present writ petition, it may be clarified at the outset that against the order dated 14.02.2011, the petitioner had filed CWP No.4148 of 2011, which was disposed of by a co-ordinate Bench on 09.03.2011, with a direction that since the said order could be appealed against, before the Syndicate of the University, the petitioner would be at liberty to file an appeal within two weeks and that the appellate authority, preferable after giving her an opportunity of personal hearing, would pass a speaking order within a period of three months thereafter.

Accordingly, as per the order Annexure P-13, the petitioner was asked to appear before the Syndicate on various dates, but she did not do so and consequently, the said order was passed dismissing her appeal, and maintaining the order of her dismissal from service.

3. The petitioner was selected as a Library Attendant by direct recruitment on 18.10.1986 and was confirmed on the post on 07.06.1994.

On 26.08.2008, she was directed by the Assistant Registrar (Establishment) to submit her original certificates of Matriculation and Diploma in Library Science, allegedly without any purpose being disclosed to her. As per the petitioner, since her family had shifted residence from the village to the city and thereafter, the petitioner had shifted to the University campus, some documents of hers had been misplaced and she, accordingly, informed the Assistant Registrar that she would submit the documents as and when they were found.

4. On 19.02.2009, she received a letter from the Assistant

Registrar that the payment of her salary w.e.f. February 2009 had been stopped because of non-submission of the original documents asked for.

The petitioner, however, as stated in the petition, continued to perform her duties and eventually submitted the original certificate of Diploma in Library Science on 26.02.2009 and applied to the Punjab School Education Board, for a duplicate Matriculation certificate. She eventually submitted her certificate on 06.05.2009, showing that she had passed the Matriculation examination in March 1974.

5. It is also contended in the petition that the original Matriculation certificate, as also the certificate of having obtained a Diploma in Library Science, from the Punjabi University, Patiala, had been seen by the selection committee at the time of the petitioners' interview for the post of Library Attendant.

However, despite her having submitted certificates and having made requests to the University, her salary was still not released.

The certificate submitted by her showed her date of birth to be 02.02.1957. It is stated to have been sent by the University to the Punjab School Education Board, for verification, to which the Board is stated to have replied on 14.10.2009, confirming the authenticity of the certificates.

6. Subsequently, when her salary was still not released, a civil suit was filed by the petitioner on 19.07.2010, against the University, which, at the time of filing of the writ petition, is stated to have been still pending before the learned Civil Judge (Jr.Divn.), Amritsar.

Thereafter, allegedly because of the petitioner "having mustered courage to file a suit against the respondent University", the services of the petitioner were suspended vide order dated 01.04.2010 (Annexure P-1 with

the petition).

7. On 29.04.2010, she was issued a charge sheet, stating therein that at the time of “getting service” in the University, she wrote her date of birth in the service book, as also in the “Character and Antecedents”, proforma, to be 02.12.1963 and that on her application for appointment, she had stated that she had obtained a 1st Division in Matriculation.

It is further stated in the aforesaid charge sheet (Annexure P-2 with the petition), that on 26.08.2008 she was told to submit her original Matriculation certificate but she kept the matter pending on one pretext or the other till 06.05.2009, on which date she submitted her certificate, showing her date of birth to be 02.02.1957 and in which she is shown to have obtained a 3rd Division, thereby proving that she had submitted a fake and forged certificate, at the time of entry into service.

Consequently, after giving the aforesaid background, the charge sheet makes out the following charges against her:-

- “1. She (Narinder Kaur) has defrauded the university by submitting fake education certificate at the time of getting service in the university.
2. She has kept the university in the dark by not submitting the asked-for documents in time and has caused harm to the interests of the office.
3. She has shown 'lesser' date of birth and has defrauded the university by writing first division instead of third division in her metric examination.”

She was directed to submit her reply to the charge sheet within fifteen days, failing which it was to be presumed that she had nothing to say in her defence.

The petitioner is stated to have submitted a reply on

28.05.2010 (Annexure P-3), after which she is stated to have received a notice from a Presenting Officer, Shri Sulakhan Singh, directing her to appear before the Enquiry Officer on 27.07.2010.

8. On that date, she appeared before the Enquiry Officer, Shri G.S.Khurana, retired District and Sessions Judge, and denied all the charges made out against her, after which she was asked to appear before him on 25.08.2010, allegedly without any agenda of the enquiry proceedings being disclosed to her, as was the case, allegedly, even when she was asked to appear before him on 27.07.2010.

9. Five witnesses are stated to have appeared before the Enquiry Officer, including one Major P.S.Hundal, on whose complaint against the petitioner the proceedings are stated to have been initiated (as per the respondents). The others were Shri J.S.Nagra, a retired Superintendent from the University, Shri Harbans Lal Chaudhary, a retired Assistant from the University, Shri Rajwinder Singh, a retired Clerk in the Establishment Branch and Shri Ranjit Singh, dealing Assistant in the Establishment Branch.

The statements of all these witnesses are stated to have been recorded on 25.08.2010 between 11:00 AM and 4:00 PM, after which the petitioner alleges that she made a request before the Enquiry Officer to give her a couple of days to go through the statements of the witnesses and to prepare “interrogatories” so as to cross-examine each of the witnesses. The said request is stated to have been declined, despite such a mandatory requirement in the provisions of Rule 33(iii)(g) of Vol.I of the University Calendar.

10. The enquiry proceedings are stated to have been concluded on that very date itself, after which the Enquiry Officer submitted his report on

29.10.2010, a copy of which is annexed with the petition as Annexure P-5, the ultimate finding in which, is recorded as follows:-

“13.Findings. In the ultimate result, I hold that the delinquent had admitted that the certificate, copy of which is Ex C/11 is the correct certificate whereby she passed matriculation in March 1974 in Third Division and her date of birth is 02.2.57. I further conclude that she made use of a false and fabricated matriculation certificate and thereby committed acts of cheating and fraud against the university by showing her date of birth as 01.12.63 and year of passing matriculation 1978.”

11. On 25.11.2010, on the basis of the aforesaid report of the Enquiry Officer, a show cause notice was issued to the petitioner as to why she be not dismissed from service. In the said show cause notice (annexed as Annexure P-6 with the petition), reference was made of a complaint received against the petitioner, to the effect that at the time of entry into service, she had produced a fake and fabricated matriculation certificate.

On 28.12.2010, the petitioner submitted a reply to the show cause notice (annexed as Annexure P-7 with the petition), stating therein that throughout her service, there was no complaint against her and after 22 years of entry into service, she was asked to submit her original certificates. She also made a reference to the unauthorised stopping of her salary w.e.f. February 2009 and the fact that though she had applied for a duplicate Matriculation certificate, she had also found the original certificate in her house, which she submitted on 06.05.2009, despite her salary not having been released and instead, she was suspended from service, without any reason given for her suspension.

It is also stated in the reply to the notice, that the petitioner had asked for certain documents on 17.05.2010, most of which were sent to her,

but the original, allegedly fake and fabricated document purported to have been submitted by her at the time of her appointment, was not supplied, with a comment from the University that it was not available in the office record. The contention of the petitioner was that it could not have been available in the office record because the Matriculation certificate submitted by her at the time of her applying for the post of Library Attendant, was the original certificate carrying Roll No.302824 and showing her date of birth to be 02.02.1957 and that she had passed the Matriculation examination in the 3rd Division.

It is further stated in the reply to the show cause notice, that one of the witnesses, Shri J.S. Nagra, retired Superintendent, had made a correction on the first page of her service book, by giving the correct roll number as mentioned in her Matriculation certificate. It was thus, contended in the said reply, that the Enquiry Officer had obviously come to an erroneous conclusion that she had submitted a fake and fabricated certificate, when even her service book did not reflect the same.

Allegedly contradictory statements made by PWs1 and 2, i.e. Shri J.S.Nagra and Shri Rajwinder Singh, have been referred to in the petitioners' reply, without giving any details of such contradiction. The reply further goes on to state that the Enquiry Officer had a pre-determined bias against her.

On the “merits” on the controversy, it has been stated that a “wrong division and year of passing may have been got typed on my application by my father”, under severe tension prevailing in the family due to threat of terrorists during days of militancy in Punjab. It is also stated that after the wrongly typed application had been submitted, the words “1st

Division” were cut out and “2nd Division” typed out, “by somebody”.

The contention made, is that after the petitioners' appointment, matriculation certificate particulars of someone else had been attached, which were dictated to her when she filled in the antecedents verification form. It is further stated that during “those dark days” her family was residing on the outskirts of the town of Jandiala, with her house built in the fields and that there used to be firing and cross-firing, day and night, and as such, instead of sympathising with her and her family, appreciating the hard times that they had gone through, the Enquiry Officer scoffed at her argument while he was recording her statement, thereby showing “utter insensitivity” towards humanity and human values and bluntly asked her if any of her family members had fallen victim to terrorist bullets.

12. The reply to the show cause notice further states that since the petitioner was appointed on due recommendation made by a selection committee, on the basis of a genuine certificate, the Enquiry Officer had wholly erred in holding that she had cheated and played a fraud with the University.

The alleged bias of the Enquiry Officer has been reiterated by the petitioner, in her reply to the show cause notice, by stating that he deliberately did not afford her an opportunity to cross-examine the witnesses.

13. In the reply filed by the respondents, other than on the issue of the University not being governed in disciplinary matters by Article 311 of the Constitution, on the merits of the controversy, it has been stated that in her application form dated 06.12.1985 (a copy of which has been annexed), applying for the post of Library Attendant, the petitioner showed herself to

be a 1st Class Matriculate, whereas as per the duplicate Matriculation certificate issued to her on June 10, 1985, she is shown to have passed the examination in the 3rd Division in March 1974, with her date of birth shown as 02.02.1957.

Further, it has been stated that in the 'character antecedents form' filled in by the petitioner (annexed as Annexure R-3 with the reply), she has shown her date of birth to be 02.12.1963, further stating that she had passed her Matriculation examination in 1978.

Still further, at the time of filling in her character antecedents form, the petitioner wrote that she was 23 years of age, whereas, at that time (October 1986), she would actually have been more than 29 years of age (as per the date of birth shown on her actual matriculation certificate).

14. The written statement further states that the first page of the service book of the petitioner was filled in by her at the time of entry in service in October 1986, in which, in her own hand, she wrote her date of birth to be 02.12.1963, both, in word and figures. Again she wrote that she had passed her Matriculation examination in September 1978.

In fact, as per the reply of the University, the dates and details in all these three documents, i.e. the application form, the antecedents form filled in by her and the first page of her service book, were all filled in with her own hand.

15. It has also been stated by the respondents that a complaint was received from one Major P.S.Hundal of village Nawan Pind, Post Office Bundala, District Tarn Taran, in which it was alleged that the petitioner procured employment in the University on the basis of a false, fabricated and fake matriculation certificate and that she obtained the job of Library

Attendant, by showing her age to be lesser by about 5 years, than her actual age and by enhancing her total marks/division, obtained in the matriculation examination.

It has, however, been admitted in the reply that the person who is stated to have made the complaint, i.e. PW2 before the Enquiry Officer, Shri P.S.Hundal, had denied having ever made the complaint, as also the signatures on it. (The complaint was Ex.C-8 before the Enquiry Officer). As per the reply, he further stated that his name had been used by some “mischievous element”. The witness further stated that the petitioner, Narinder Kaur, was known to him “by face being sister of my classmate” but he did not know her name.

16. Reference has also been made, in the reply, to various letters written over a period of five months (from 26.08.2008 to 06.01.2009), by the University to the petitioner, asking her to produce her original matriculation certificate so as to verify the genuineness of the complaint received. However, the petitioner kept putting off the matter on one pretext or the other, as alleged in the written statement.

As regards the withholding of the petitioners' salary, it is stated that that was done “with the intention to force her to submit the original matriculation certificate”.

17. Details of the certificate produced before the University, as per the service record of the petitioner, at the time of getting employment in the University, in October 1986, have been described in the reply as follows:-

<u>Examination</u>	<u>Roll No.</u>	<u>Year</u>	<u>Division</u>	<u>Date of Birth</u>
Matriculation	302824	Sept, 1978	First	2.12.1963”

On the other hand, as per the duplicate matriculation certificate

stated to have been submitted by her in 2009, the details, as described in the reply, are as under:-

<u>“Examination</u>	<u>Roll No.</u>	<u>Year</u>	<u>Division</u>	<u>Date of Birth</u>
Matriculation	302824	March, 1974	Third	2.12.1957”

18. As regards the enquiry proceedings, it has been stated that the petitioner duly cross-examined PW1 Rajwinder Singh, PW3 Harbans Lal Chaudhary, PW4 J.S. Nagra and PW5 Ranjit Singh.

Copies of the examination-in-chief and cross-examination of these witnesses, as also the examination-in-chief of PW2, P.S.Hundal, have been annexed with the written statement as Annexures R-6 to R-10.

19. The statement of the petitioner dated 27.07.2010, denying the charges against her, as also her statement dated 25.08.2010, finally stating that she did not want to lead any defence witness, have also been annexed with the written statement as Annexures R-5 and R-11 respectively.

In the statement dated 25.08.2010, with regard to filling up of the proforma for police verification, the petitioner stated as follows:-

“The office issued to me a proforma for police verification report and I was asked to fill up columns giving necessary particulars. I filled up the proforma in my own handwriting and copy of the same is Ex.C-6. In that proforma I have mentioned my date of birth as 2-12-1963, age 23 years and year of passing Matriculation examination 1978. These particulars were given under stress of circumstances because those were the days of terrorism and I and my family members were under great stress. I mentioned those particulars false (the word 'factually' cut down by hand). It may be that the office produced before me some other certificate of any Narinder Kaur which mentioned the date of birth as 02.12.1963 and year of passing the

examination of 1978. I just took those particulars from that certificate little knowing that I was being misled and in fact that certificate did not pertain to me. I did not purchase any Service Book. I was simply asked to attend office, where my finger prints were obtained and my signatures were also obtained. No column on the opening page of the Service Book was filled by me. I did not care to notice the particulars mentioned against the various columns. I did not mention my date of birth as 2-12-1963, and the year of passing Matriculation examination 1978. The cuttings in the Roll Number were not made in my presence. I do not know who made the cuttings and when. I produced the original certificates of Matriculation and Diploma in Library Science at the time of interview before the Selection Committee and again when my signatures and finger prints were obtained on the Service Book. The certificates were retained by the office and were returned to me after a few days.”

20. The petitioner filed a replication to the written statement filed by the respondents, reiterating in effect, on the factual position, what has been stated in the writ petition itself.

In addition, it has been stated that though she had asked the Registrar to supply a copy of the reply/comments submitted by the Vice-Chancellor, on her appeal to the Syndicate, as also the decision of the Syndicate to grant her a personal hearing, the same was not supplied to her.

The withholding of her salary in an illegal manner, has also been reiterated in her replication.

21. Mr. Harpreet Singh Brar, learned counsel appearing for the petitioner, first pointed to clause 33(i) of the Statutes contained in Vol. I of the University Calendar, which stipulates the penalties, including dismissal, that may be imposed on an employee of the University. He further pointed to

sub-clause (iii) thereof, to submit that no dismissal, removal or reduction shall be imposed unless the employee has been given a reasonable opportunity of showing cause against the action proposed to be taken.

He submitted that the enquiry proceedings against the petitioner are actually vitiated, as no reasonable opportunity was given to the petitioner to cross-examine witnesses, as can be seen from the fact that the enquiry concluded in a single day.

Mr. Brar further submitted that the order of suspension dated 01.04.2010 (Annexure P-1) gives no reason for suspension of the service of the petitioner, further revealing the malafide intents of the respondents, which fact, according to learned counsel, is further fortified by the fact that her salary was also stopped without reason, compelling her to file a civil suit.

22. Other than the above, Mr. Brar submitted that the complaint against the petitioner, itself having been disowned by the alleged complainant, i.e. Major P.S.Hundal, it became a pseudonymous complaint, which could not have been entertained.

Further, learned counsel laid great emphasis on the fact that even the allegedly fake certificate, on the basis of which the petitioner was charge sheeted and eventually dismissed, was never produced, either by the authorities themselves, nor by anybody else, before the Enquiry Officer.

As such, he submitted that the very basis of the enquiry proceedings being non-existent, the petitioner could not have been proceeded against and eventually dismissed.

In support of his arguments, Mr. Brar cited the case of **Managing Director, ECIL, Hyderabad v. B.Karunakar**(AIR 1994 SC

1074).

23. On the other hand, Mr. Amrit Paul, learned counsel for the respondent University, submitted that, as a matter of fact, both, the suspension orders as also the disciplinary proceedings and the punishment awarded to the petitioner, are wholly in consonance with the provisions of clause 33 of the Statutes, the petitioner having been duly, first, issued a charge sheet in writing, giving her ample opportunity to reply to the same, which she did by way of her admitted reply (Annexure P-3 with the writ petition), though of course, she denied the entire charges.

He submitted that since the matter was as simple as submission of a fake certificate and having filled in her particulars wrongly, all available documents were duly shown to her; and in any case, she eventually having admitted to having filled up the application form by giving her date of birth as 02.12.1963, her age as 23 years and year of passing of matriculation examination as 1978 instead of 1974, nothing else remained to be proved.

Learned counsel submitted that in the statement of the petitioner, duly signed by her before the Enquiry Officer on 25.08.2010, she simply stated that these particulars may have been filled in by mistake by her on the basis of the certificate of some other Narinder Kaur and as such, the mistake was not intentional. Hence, having admitted that it was actually she herself who had filled in the documents giving wrong particulars, the petitioner cannot take shelter of her own mistake, simply by taking a ridiculous stand, stating that she may have filled in her own particulars, well known to her, from somebody elses' certificate.

Lastly, Mr. Paul submitted that this Court, in exercise of

jurisdiction under Article 226 of the Constitution, would not act as a Court of appeal, to sit in judgment over the punishment awarded by a competent authority, after due process of law. In this regard, he cited the following judgments:-

- i) **Avtar Singh Constable v. State of Punjab and others** 2004 (1) RSJ 167 (Division Bench of this Court);
- ii) **Lalit Popli v. Canara Bank of others** (2003)(2) RSJ;
- iii) **The High Court of Judicature at Bombay v. Shashikant S.Patil and another** (1994(4) RSJ 703; and
- iv) **Apparel Export Promotion Council v. A.K.Chopra** (1999) 1 SCC 759.

He, therefore, prayed that the writ petition be dismissed, with costs, being wholly devoid of merits.

24. Having heard learned counsel for the parties and having gone through the pleadings and the record produced by the University, pertaining to the disciplinary proceedings, I find no infirmity in either the charge sheet issued to the petitioner, the enquiry proceedings conducted, or the impugned orders, except, perhaps with regard to the nature of punishment awarded.

Firstly, I see no basis to the arguments raised by the learned counsel for the petitioner, with regard to any violation of clause 33 of the Statutes published in the University Calendar. The said clause reads as under:-

“Penalties

33(i) The following penalties may for good and sufficient reason be imposed upon any employee of the university:

- a) Censure.
- b) Withholding of increment or promotion.

- c) Reduction to a lower post or a lower stage in the same post.
 - d) Recovery from pay of the whole or part of any pecuniary loss caused to the University by negligence or breach of orders.
 - e) Removal from the service of the university which does not disqualify from future employment.
 - f) Dismissal from the service of the university which ordinarily disqualifies from the future employment.
 - g) Compulsory retirement
Provided that where it is proposed to take action as mentioned under Clause (c) (e), (f) or (g) above, in the case of an employee on foreign service, a recommendation to that effect shall be made to his parent department and the parent department may take such action as it considers necessary on such recommendations.
- ii) Except where otherwise laid down in the Statutes, the authority competent to appoint shall be competent to impose any kind of punishment including removal from office on grounds of misconduct, gross inefficiency etc. in the event of any such orders of punishment by the competent authority, the employee concerned shall have the right to appeal to the next higher authority whose decision shall be final.
 - iii) No penalty of dismissal, removal or reduction shall be imposed unless the employee has been given a reasonable opportunity of showing causes against the action proposed to be taken in regard to him.
 - iv) The grounds on which it is proposed to take action under clause (c) (e) (f) or (g) shall be reduced to the form of a definite charge or charges which shall be communicated in writing to the employee concerned and he shall be required within a reasonable time to state in writing whether he admits the truth of all of the charges, what explanation or

defence if any, he has to offer and whether he desires to be heard in person. If he so desires or if the appointing authority so directs, an oral enquiry shall be held at which all evidence shall be heard to such of the charges as are not admitted. The person charged shall be entitled to cross-examine the witnesses, to have such witness called as, he may wish provided that the officer conducting the enquiry may for reasons to be recorded in writing refuse to call any witness. The proceeding shall contain sufficient record of the evidence and the statement of the findings and the grounds thereof.”

25. Before going into the enquiry proceedings, since an ancillary issue was also raised by learned counsel for the petitioner and has also been referred to in the writ petition, it is necessary to first state that as regards the stoppage of salary of the petitioner, the said action is not under challenge in the present petition and is a subject matter of a civil suit and therefore, nothing needs to be adjudicated upon in that regard, by this Court. That issue would be dealt with on its own merit, by the civil Court.

As regards the suspension of the petitioner from service, that too has not been challenged by the petitioner, in the prayer made in this petition. Nonetheless, it may be said, in view of the allegations against the petitioner, on the basis of which the impugned charge sheet was issued to her, on 29.04.2010, that the suspension order dated 01.04.2010, would be in consonance with clause 33-A of the Statutes of the University, as published in the University Calendar, which states to the effect that the Vice-Chancellor may place any employee of the University under suspension, where disciplinary proceedings against him are contemplated or are pending.

The above provision, again, has been referred to only because it

was brought up during the course of arguments, but otherwise, as already said, the suspension order is not under challenge in the present petition. Hence, nothing further need be elaborated on that issue.

26. Coming to the impugned charge sheet, enquiry proceedings and orders of dismissal, I see no infirmity therein either.

No doubt, the charge sheet was issued to the petitioner, after the receipt of a complaint, almost 22 years after her induction into *ad hoc* service and about 14 years after her confirmation on the post of Library Assistant (on 07.06.1994).

Again undoubtedly, the person who is shown to have written the complaint, i.e. Major P.S.Hundal, did not stand by his complaint and stated that it was neither written by him nor bore his signatures, when he appeared before the Enquiry Officer as PW2. However, that does not alter the fact that on receipt of the complaint, when the petitioner was asked to submit her original matriculation certificate, she kept putting it off by stating that she had misplaced the same and eventually either produced a duplicate certificate obtained from the Punjab School Education Board (as per the University), or produced the original certificate (which, according to the petitioner, she had, meanwhile, found). Otherwise, it is not denied that the certificate produced in 2009 by the petitioner, is her true matriculation certificate, issued to her under Roll No.302824, showing that she had passed her matriculation examination in March 1974 and not in September 1978. Again, the date of birth given on the certificate admittedly eventually produced by her, is 02.02.1957 and not 02.12.1963. Further, the correct matriculation certificate showed her to have obtained a 3rd Division in the examination held in March 1974 and not a 1st Division or a 2nd Division as

claimed by her at the time of filling in her application form.

Therefore, in the above circumstances, it was a natural consequence, that a charge sheet would be issued to her presuming that a fake certificate had been submitted by her in 1986, as there were glaring discrepancies between the forms filled in by her at that time, and the certificate of Matriculation eventually submitted by her in 2009.

Hence, the first and third charges were a follow up to these discrepancies seen by the authorities.

The second charge, relating to her putting off submitting her documents, though a lesser charge, was also not incorrect, as seen. Thus, as regards issuance of the charge sheet with the 3 charges contained therein, no fault can be found with the respondents.

27. She was given due opportunity to reply to the charge sheet, which as already noticed, she availed of, vide her reply dated 28.05.2010.

Coming to the enquiry proceedings, the Enquiry Officer first asked her to appear before him on 27.07.2010 and then on 25.08.2010, on which date the witnesses were examined and cross-examined by the petitioner. Thereafter, on the same date, she made her statement (reproduced earlier) virtually admitting to everything except the filling in of the service book by her, though the admission was qualified with explanations.

The contention of learned counsel that no agenda of the enquiry proceedings was disclosed to her, thereby vitiating the entire proceedings, is not an argument that can be accepted. The charge sheet already having been issued to her with definite charges given therein, and she having been duly informed to appear before the Enquiry Officer to defend herself against the charges, I do not see what other the agenda was required to be supplied to

her. The contention that she was not given ample opportunity to cross-examine the witnesses because she had to do so on the same date, is also not an argument to be accepted, because, other than the fact that even as per clause (iv) of Statute 33 it is simply required that the person charged shall be entitled to cross-examine the witnesses, a perusal of the file relating to the enquiry proceedings (photocopy thereof), shows that the statements of the witnesses were of no complicated nature so as to require any detailed preparation with regard to cross-examination. In any case, there is nothing on the file at all to substantiate the contention made on behalf of the petitioner, that she had asked for more time to cross-examine the witnesses. What is seen in the file, is that she duly cross-examined the witnesses that she wanted to, after which she made her detailed statement as already reproduced. A perusal of the record produced by the University shows that PW1 Rajwinder Singh, Senior Assistant of the University, was actually cross-examined by her, as were PW3 Harbans Lal Chaudhary, retired Assistant Registrar, PW4 J.S.Nagra, retired Superintendent of the Establishment Branch of the University and PW5 Ranjit Singh, Senior Assistant in the said Establishment Branch.

In the statement of the petitioner dated 25.08.2010, she concluded by stating that she did not wish to lead any defence evidence.

Thus, the argument that she was not given due opportunity to cross-examine the witnesses, is also simply an argument made in Court with no basis thereto and is, in fact, contrary to the record. Further, that contention of the learned counsel (that the petitioner was not given enough time to prepare her cross-examination), in the opinion of this Court, pales into insignificance in view of the fact that the petitioner admittedly, as per

her own statement dated 25.08.2010, had filled in particulars in at least two documents, at the time of entry into service, contrary to the record contained in her matriculation certificate.

28. The Enquiry Officer after having conducted the aforesaid proceedings, and having come to his conclusion finding the petitioner guilty of all the charges, submitted his enquiry report with which the competent authority (the Registrar of the respondent University) found no fault and therefore, after obtaining orders from the Vice-Chancellor, issued her a show cause notice, as to why she be not dismissed from service.

That notice also having been replied to in detail by the petitioner, the impugned order of punishment, Annexure P-8, was passed by the Registrar, before which the petitioner was given a personal hearing by the Vice-Chancellor.

It is not the case of the petitioner, either in the pleadings or in any argument made based on any statutory provision, that the order of dismissal was passed by an incompetent authority. Thus, I find no fault with the disciplinary proceedings upto this point.

29. Similarly, pursuant to directions issued by this Court in CWP No. 4184 of 2011, the Appellate Authority, i.e. the Syndicate of the University, upon the petitioner filing her appeal before it (Annexure P-11), first duly gave her an opportunity of personal hearing, which was conveyed to her by the Deputy Registrar (Establishment) vide a memo dated 10.06.2011, as has been stated by the petitioner herself in her letter to the Dean, Academic Affairs, dated 16.06.2011 (Annexure P-12). However, instead of appearing before the Appellate Authority, she demanded that a copy of the comments of the Vice-Chancellor, as put up before the Appellate

Authority, be supplied to her, so as to “present her case before the Syndicate in the right legal perspective at the time of personal hearing”.

In my opinion, there was no duty cast upon the Syndicate or the punishing authority to provide a copy of such comments to the petitioner, when she had been given due opportunity of presenting her own case before the Syndicate, which would then have considered her arguments, weighed against the order of punishment and then taken a decision. In any case, other than the fact that there is no legal requirement for supplying a copy of any comments that may have been sent by the Vice-Chancellor, the fact remains that the petitioner having been given an opportunity at every stage to defend herself and she duly having done so and specifically having stated before the Enquiry Officer, after cross-examination of each witness, that she did not wish to lead defence evidence, and she herself having admitted that she had filled in the particulars wrongly in her application form and character antecedents form, though under allegedly adverse family circumstances, I do not see how she was prejudiced, in any manner, by non-supplying of any comment that may have been made by the Vice-Chancellor after considering the entire circumstances.

Though even an opportunity of hearing was not necessary before the Appellate Authority, in view of the procedure laid down in Statute 33 of the University Calendar, however, (which actually does not provide for an appeal), in terms of the order of this Court passed in CWP No. 4184 of 2011, in which it was directed that the petitioners' appeal be decided by the Appellate Authority “preferably after giving her an opportunity of personal hearing and by passing a speaking order”, such opportunity was duly granted to her, which she did not avail, obviously

having no legs to stand on as regards the merits of her case. Also, the direction passed by this Court in CWP No. 4184 of 2011, while disposing of the said writ petition on 09.03.2011, was that a speaking order be passed within a period of three months from the date of submission of the appeal by the petitioner. Consequently, the impugned order, Annexure P-13 was duly passed by the Appellate Authority on 24.06.2011, the appeal having been presented by the petitioner on 29.03.2011.

Hence, in view of the detailed procedure followed before issuing both the orders impugned, giving opportunity to the petitioner to present her stand at each stage, I see absolutely no fault in the disciplinary proceedings conducted against her.

30. As such, I do not see what aid is sought to be taken by the petitioner from the judgment cited by Mr. Brar, in the case of *B.Karunakar* (supra).

Similarly, the other judgments referred to in the writ petition, i.e. **Khemchand v. Union of India** (1958 SC 30) and **Chandrama Tewari v. Union of India** (AIR 1988 S.C. 117), do not help the case of the petitioner.

The ratio of the aforesaid judgments is to the effect that no prejudice should be caused to a charge sheeted employee, either by non-supplying of any documents to him/her, or by not granting him/her an opportunity of cross-examining witnesses etc. All those requirements, statutory, as also as are based wholly on the principles of natural justice, were duly complied with in the petitioners' case.

Therefore, in the opinion of this Court, there is no violation of clause 33 of the Statutes contained in Vol.I of the University Calendar, by

not affording enough opportunity to the petitioner to defend herself, against the charge sheet issued, or even at later stages.

31. Coming finally, therefore, to the act of the petitioner, as formed the basis of the charge-sheet.

It is again to be noticed here that it has been stated in the replication, as also in the writ petition itself, that the service book was not filled in by the petitioner and only her signatures were obtained on it and, as a matter of fact, the service book was filled in by the concerned official of the Establishment Branch. And whereas in the writ petition, no mention has been made of the petitioner having filled in the forms wrongly, however, the replication, in paragraph 3(ii), states that the wrong roll number and date of birth mentioned in the character and antecedents verification form were dictated to the petitioner by the concerned official of the Establishment Branch, who had earlier filled in the same wrong particulars on the first page of the service book of the petitioner.

This is again opposed to what has been stated in the statement of the petitioner, dated 25.08.2010, which is that the particulars given in the proforma for police verification were filled in by the petitioner in her own hand, giving her date of birth as 02.12.1963, her age as 23 years and the year of passing the matriculation examination as 1978, which was filled in under stress of circumstances. It has further been stated that those particulars were mentioned falsely by her because “may be that the office produced before me some other certificate of any Narinder Kaur which mentioned the date of birth as 02.12.1963 ...”.

Neither of these reasons given is creditworthy because, obviously, she knew her own date of birth, age and year of passing the

Matriculation Examination, whether these were dictated to her rightly or wrongly.

In the application form, it is first given that the petitioner cleared the matriculation examination in the 1st class (Division) which is then cut to show that it was passed in the 2nd Division. As per the admittedly correct matriculation certificate, the year in which she actually passed the matriculation examination was 1974, with the petitioner having passed the examination in the 3rd Division. As such, both the entries, of a 1st Division and a 2nd Division, are wrong.

She has, of course, in that statement (of 25.08.2010), denied having made the cutting in the roll number, in the service book. However, I do not see what mileage can be derived by the petitioner from that fact also, because the cutting is of a wrong roll number to a correct roll number and as such, her denial in making that cutting, to a correct one, does not alter the fact that she had given wrong particulars of her date of birth, age and year of passing the matriculation examination.

To repeat, the statement dated 25.08.2010, reproduced earlier in the judgment, made by the petitioner before the Enquiry Officer, has not been denied at any stage, and therefore, is accepted by her to be correct. Moreover, as noticed even in the replication filed, the factum of filling in wrong particulars is admitted, with the excuse that they were dictated to her by someone, which is, as said, unacceptable, being her own particulars, more than well known to her.

Therefore, the stress laid by learned counsel, on the fact that neither the original, nor any attested copy, of a forged/false/fake matriculation certificate has ever been produced by the respondents, would

not affect the fact that, as per the petitioners' own admission, the particulars in the application form and antecedents verification form at least, were filled in by her wrongly, and deliberately so, depicting her age to be more than six years younger than what it actually was and showing that she had obtained a 2nd Division rather than a 3rd Division.

32. Mr. Brars' contention that the allegedly fake matriculation certificate never having been produced, there is no basis to the charge against the petitioner, also is an argument which cannot stand, in view of the fact that with a wrong date of birth, age and year of passing the matriculation examination with a second division, having been filled in by the petitioner in two forms at least, the natural presumption would be that she had also submitted a false certificate, as per which the said particulars were verified by the concerned officials of the University.

Thus, the charges against her, as contained in the charge-sheet issued, are not to be faulted. However, whether or not the positive finding of the Enquiry Officer, that a fake certificate was actually submitted by her, needs to be looked at.

As per the report of the Enquiry Officer (Annexure P-5), the petitioner, in her application form, had written, in respect of her qualification of Diploma in Library Science, that the certificate was not attached. The Enquiry Officer, therefore, inferred that (since the same thing was not written qua the matriculation certificate), some matriculation certificate at least, had been attached with the form.

Subsequently, he also referred to the statement of the clerk dealing with the petitioners' file at the time of her entry into service, PW1 Rajwinder Singh, who stated that the petitioner had filled the form in her

own hand (as admitted by the petitioner herself also).

As per PW4, J.S.Nagra, he had made the correction in the roll number of the petitioner (referred to earlier), in her service book (Annexure R-4 with the reply). The witness explained that it happened when some of his junior staff had put up the case before him and he tallied the particulars with the attested copy of the certificate attached with the file. Thus from Roll No.537151, as given in the application form, he corrected it to 302824 (from the attested copy of the certificate).

From the above testimony it would, therefore, seem that at least an attested copy of the matriculation certificate attached by the petitioner, did not belong to her but was of another person who was assigned Roll No. 537151, in some other matriculation examination possibly held in September 1978, whereas the petitioner was assigned Roll No.302824 for the examination that she took in March 1974.

Yet, no attested copy of the matriculation certificate was produced before the Enquiry Officer. Hence, to that extent, Mr. Brars' contention has to be accepted that the first charge against the petitioner of having actually submitted a fake education certificate (matriculation certificate) at the time of obtaining a job in 1986, is not a charge which stands fully proved. The inference taken by the Enquiry Officer, as referred to above, though may not be a wholly incorrect inference, but without substantive proof that the petitioner actually submitted a false certificate, without even an attested copy thereof having been retained by the University, it cannot be held to be conclusive proof that the certificate submitted by her in 1986, was a fake one.

It is equally possible that she had not submitted any fake

certificate but had deliberately wrongly filled in her particulars in the application form and character/antecedents verification form, and again either she or anyone else, also filled in wrong particulars in her service book. Thus, as regards the first charge, of the petitioner having submitted a false certificate, the Enquiry Officers' finding to that extent, is held to be not fully substantiated.

33. That however, does not mean that she is not still equally guilty in having filled in wrong particulars deliberately, to obtain advantage, at the time of her entry into service.

Though no disciplinary proceedings were held against either PW4 or his juniors (Pws1 and 3), all having retired from service, the possibility of complete callousness, or connivance, on their part, obviously cannot be ruled out. However, that is not the subject matter of the present petition and as such, is left at that, especially as, at this stage, after their retirement from service, disciplinary proceedings may not be sustainable at all.

In any case, any connivance or callousness at the hands of the University staff, cannot 'dilute' the act of the petitioner herself, in furnishing false particulars contrary to her matriculation certificate, by showing herself to be almost six years and ten months younger than her actual age, and showing that she earned a 2nd Division instead of a 3rd Division and further showing the month and year of her having passed the matriculation examination to be September 1978 instead of March 1974.

Thus, even if a doubt is cast on the Enquiry Officers' finding with regard to a false certificate having been submitted, there is no doubt on the finding that a completely wrong date of birth, and other particulars, were

filled in by the petitioner in her admission form and the character/antecedents verification form, contrary to the particulars contained in her matriculation certificate.

Therefore, only because neither the original nor the attested copy of the certificate submitted by the petitioner in 1986 was produced before the Enquiry Officer, it does not absolve her of her conduct in filling up particulars contrary to what was contained in her matriculation certificate, at the time of her entry into service.

The justification that she gave before the Enquiry Officer was two fold; firstly, because of the stress of circumstances under which her family had to leave their village due to terrorism and shift to another place and secondly, because (again under that stress), she possibly noted the particulars of some other Narinder Kaur while filling in the form.

Whereas the stress of having possibly undergone terrorist threats cannot be ruled out, that does not in any manner justify the petitioner filling in completely wrong basic and essential particulars, not only in her application form but also in the form that she filled in, on the basis of which her antecedents were to be verified.

34. As regards the fact that the person who is alleged to have made the complaint against the petitioner, i.e. Major P.S.Hundal, having denied making the complaint, it is possible that he was either won over, as admittedly he was a classmate of the petitioners' brother, or, even if that is not so, the disciplinary proceedings cannot be held to be vitiated in view of the fact that whatever be the source of the complaint against the petitioner, the facts contained in the complaint were found to be correct, in the disciplinary proceedings and, in fact, were admitted to by the petitioner,

though by giving her own version with some justification. Such justification, as already discussed, is not acceptable, even if the petitioners' conduct was a result of any stressful circumstances caused by terrorist threats (even if such threats are accepted at face value, to have been given out to her family).

35. In view of the above discussion, having found no procedural irregularity in the disciplinary proceedings conducted against the petitioner right up to the stage of dismissal of her appeal by the Syndicate of the University, and though having further held that charge No.1 has not been fully proved against her, charges No. 2 and 3 stand fully proved in view of the detailed discussion hereinabove. The main charge that would still invite a severe punishment even *de hors* charge No.1 not having been proved, would be charge No.3 which states that a “lesser date of birth” had been shown by her. It also states that she defrauded the University by writing that she had written Ist Division instead of 3rd Division in her Matriculation Certificate. Though, as has been seen hereinabove, eventually, it was written 2nd Division and not a 3rd Division, the fact is that she had not obtained even a 2nd Division. Hence, that charge would stand fully proved against her.

Charge No.2, though comparatively a much lesser charge, is also not an unsubstantiated charge, in view of the fact that the petitioner did give one excuse or the other to not submit her original matriculation certificate and later submitted a duplicate certificate (not fake, but a duplicate of the original), issued to her by the Punjab School Education Board. As noticed, she also stated that in the meanwhile, she had found her original certificate. Obviously, in view of the fact that the particulars contained in the original certificate were wholly and completely different to the wrong particulars deliberately filled in by her, and knowing that fully

well, she tried to put off the issue to avoid having to face proceedings. Hence, the second charge against her was also not incorrect.

It is to be noticed that the Enquiry Officer in his findings in para 13 of his enquiry report (Annexure P-5) has eventually held that the petitioner “made use of a false and fabricated Matriculation Certificate and thereby committed acts of cheating and fraud against the University by showing her date of birth as 01.12.63 and year of passing of matriculation examination 1978”.

Thus, he has not specifically held each charge to be proved against the petitioner in his conclusion. However, a perusal of the enquiry report shows that the issue of the petitioner having filled in wrong particulars deliberately in her application seeking employment, has been dealt with in the first part of paragraph 9 of the report, holding that “It cannot be believed that a stranger typed or got typed the application mentioning qualifications without her knowledge or against her instructions”.

Again in paragraph 10 of the report, the issue of the petitioner having filled in particulars wrongly in the character and antecedents verification form has also been dealt with, again holding against her.

Thus, only because in his conclusion, the Enquiry Officer did not specifically mention that each charge stands proved, would not be a ground to hold that the enquiry report is vitiated or that its findings are unsustainable. In any case, this Court, having gone through the entire pleadings and the record put up before it, has, *ex facie*, found that the petitioner did wrongly and deliberately fill in particulars, against what was contained in her Matriculation Certificate, in both the aforesaid forms.

Hence, it would be a wholly unnecessary exercise to remit the matter for specific findings with regard to charges No.2 and 3, only because they have not been specifically mentioned in the conclusion of the Enquiry Officer, though he has held against the petitioner with regard to charge No.3 also, in paragraphs 9 and 10 of his report. That finding alone, which has also been gone into detail by this Court, would naturally, invite punishment on the petitioner.

36. Having held as above, it, however, needs to be noticed that 22 long years went by after the petitioner was inducted into service, in 1986, before her 'delinquent act' was first noticed, or at least was first brought into question.

After judgment had been reserved, it was seen by this Court that the Statutes of the University Calendar, specifically Chapter II thereof, which governs creation of departments and appointment of staff etc., including the mode of appointment of employees and conditions of service, does not mention any age limit for entry into the service of the University. Hence, a specific query was put by this Court to Mr.Amrit Paul, learned counsel for the University, as to the upper age limit for recruitment as a Library Attendant, in the year 1986.

On written instructions obtained by him, from the Assistant Registrar of the University, it has been specifically stated that though there was a minimum age limit of 18 years, there was no maximum age limit for recruitment to the post of Library Attendant in the year 1986, (as is also the case for many other posts). He also submitted a copy of the relevant extract of the regulations of the University, in which the eligibility and method of recruitment to the post of Library Assistant are contained. As regards library

staff, it is contained in the regulations that a Library Attendant was to possess the qualification of Metric/Higher Secondary, with a certificate/diploma in Library Science, or five years' experience in library work, or to be a Graduate. 66% of the posts were to be filled in by direct recruitment. However, no age limit is given, even in the regulations.

Therefore, obviously, with no upper age limit prescribed, showing her age to be less than what it was, would not affect the petitioners' chances of obtaining a job; however, she would superannuate from service six years and ten months after the date on which she would have correctly retired, as per the age given on her matriculation certificate.

Thus, her act of actually and consciously having filled in wrong particulars, no matter what stress she was under, is not condonable. Yet, with 22 years having gone by, with no other misdemeanor reported against her during that long period, in the opinion of this Court, dismissal from service, in such circumstances, may be too harsh a punishment; and whereas a Court should not normally interfere in the quantum of punishment awarded by a punishing authority, in the above given circumstances, of 22 years having elapsed since the petitioner was inducted into service, in my opinion, even though this writ petition must be dismissed, liberty should be granted to the petitioner, to represent before the competent authority, for grant of a lesser punishment than dismissal, in terms of the other punishments stipulated in clause 33 of the Statutes published in the University Calendar. Whether such lesser punishment is removal from service, thereby not debarring her chances of future employment, or some punishment even less than that, would obviously be upto the competent authority to decide.

Therefore, while dismissing the petition, liberty is granted to the petitioner, of making a representation for a lesser punishment, to the competent authority, within a period of one month from the date of receipt of a certified copy of this order. If such a representation is made, it would be decided within two months thereafter.

37. With the limited liberty given above, in view of the discussion on the merits of the case, this writ petition is dismissed.

No order as to costs.

November 4, 2015
dinesh/nitin

[AMOL RATTAN SINGH]
JUDGE