

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP No. 15817 of 2014. [O&M]
Date of Decision: 21st April, 2015.

Saroop Kumar
Versus

Petitioner through
Mr. Ashok Sharma Nabhewala, Advocate

Union Territory, Chandigarh & Ors.
Respondents through
Mr. Sekhar Verma, Advocate

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

SURYA KANT, J. [ORAL]

The petitioner has laid challenge to the order dated 25th July, 2014 whereby the Central Administrative Tribunal, Chandigarh Bench has dismissed his Original Application in which he assailed the order dated 29th September, 2011 of his dismissal from service.

[2]. The facts are not in dispute. The petitioner applied for the post of Bus Driver on the basis of an advertisement issued by the Transport Department, Union Territory, Chandigarh. Having been selected, he was offered appointment vide order dated 08th July, 2010. The petitioner was kept on probation for a period of two years in accordance with the Chandigarh Transport Department [Group-C Operational Staff Recruitment] Rules, 2006.

[3]. It is an admitted fact that the requisite qualification prescribed for the post of Bus Driver was Matriculation along with Driving Licence [Heavy Vehicle]. After the petitioner's appointment, it

transpired on verification that the Matriculation certificate, furnished by him, purportedly issued by Central Board of Higher Education, Delhi was bogus and fabricated as neither there existed an Education Board in the said name nor could any occasion arise for the petitioner to appear and pass such examination.

[4]. Having detected that the petitioner had entered into public employment on the basis of a forged and fabricated certificate and actually he did not possess the minimum academic qualification, a show cause notice was issued and after considering his reply, the order dismissing him from service was passed.

[5]. The aggrieved petitioner approached the Central Administrative Tribunal who has, in the light of the glaring facts mentioned above, dismissed the Original Application.

[6]. Still aggrieved, the petitioner has approached this Court.

[7]. We have heard learned counsel for the parties and gone through the record.

[8]. Since the petitioner entered into public employment on the basis of a forged and fabricated certificate and he did not possess the requisite qualification as prescribed under the Rules, the action of the authorities in dispensing with his services would ordinarily warrant no interference by this Court. The petitioner's fate would have, thus, been finally sealed for the reasons assigned in **CWP No. 12029 of 2014 [Raj Pal Vs. Union Territory, Chandigarh & Ors.]** vide our separate order of even date. There is, however, a subsequent event, which requires consideration.

[9]. The petitioner has positively asserted that subsequently

he has passed matriculation examination [P-9] from Himachal Pradesh Board of School Education as a private candidate in March, 2012.

[10]. There can possibly be no quarrel that Himachal Pradesh Board of School Education is a genuine and well recognised Education Board.

[11]. Where a candidate entered into public employment on the basis of non-existent or fake qualification but subsequently acquired the requisite qualification from a recognised institute, this Court in **Ram Bhagat Sharma Vs. State of Haryana & Ors., 1997[4] RSJ, 134** and later in **CWP No. 8218-CAT of 2013 [Pafna Vs. Home-cum-Education Secretary, Chandigarh & Ors.]** decided on 18th November, 2013 and **CWP No. 3236 of 2014 [Union of India & Ors. Vs. Sukhbir Singh & Ors.]** decided on 05th November, 2014, has viewed that to obviate hardship, an opportunity can be granted to the employee to prove his eligibility and if it is found that the subsequent qualification is genuine and he fulfills the prescribed parameters, the authorities can consider his claim for retention in service objectively and in a dispassionate manner. Needless to say that if such like claim is accepted, the eligibility can not relate back to the date of original appointment and ought to be postponed without any past service benefits.

[12]. Since the petitioner in this case relies upon the matriculation certificate of Himachal Pradesh School Education Board which he claims to have passed in March, 2012, we dispose of this writ petition with a direction to the Director, Transport, UT,

Chandigarh to verify the genuineness of the above mentioned qualification and re-consider the petitioner's claim for retention in service in the light of the above cited decisions of this Court. The work and conduct of the petitioner during the period he remained in service shall also have a bearing on such re-consideration. It shall be appreciated if an appropriate order is passed within three months from the date a certified copy of this order is received. Till then *status-quo* passed by this Court shall continue to operate.

[13]. Disposed of. Dasti.

(**SURYA KANT**)
JUDGE

April 21, 2015.
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(**P.B.BAJANTHRI**)
JUDGE