

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 18229 of 2015

Date of Decision : August 31, 2015

Constable Surinder Kumar Petitioner
Vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Sat Narain Yadav, Advocate
 for the petitioner.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of Inquiry Report dated 14.05.2002 (Annexure P-5), as also orders dated 07.02.2010 (Annexure P-19) and 24.02.2015 (Annexure P-21), through which the petitioner has been ordered to be dismissed from service.

The relevant uncontroverted facts are that on a complaint, the petitioner was charge-sheeted for having forged his Matriculation Certificate, filed by him at the time of seeking appointment as a Constable

with the respondent Department. The charge against the petitioner was that his actual date of birth was 06.03.1959, but he, after committing forgery, changed his date of birth to 06.03.1963. Had he not changed his date of birth, he would have been ineligible being overage.

The reply of the petitioner to the charge-sheet, having been found to be unsatisfactory, he was subjected to a regular departmental inquiry, in which he participated and was found to be guilty of the charge made against him. The Inquiry Report dated 14.05.2002 found that the petitioner had actually committed fraud with the Police Department by committing forgery by making changes in his date of birth in his Matriculation Certificate. On the basis of the finding of guilt recorded against the petitioner, he was initially granted punishment of stoppage of ten increments with cumulative effect, which, on appeal, was reduced to stoppage of three increments with cumulative effect.

One Dharambir, who had also been found guilty of similar misconduct as the petitioner, was ordered to be dismissed from service. Since he had died, his wife Smt. Ram Rati Devi, seeking parity with the case of the petitioner, approached this Court through **C. W. P. No. 2998 of 2009**, which was dismissed on 02.02.2010 with the following directions :-

*“From the perusal of the order
of dismissal of Dharambir and Annexure
P-8 in respect of Surinder Kumar it appears*

that the same authority (official) has passed both the orders. In case of Dharambir Singh, predecessor-in-interest of the petitioners, he has been dismissed from service whereas Surinder Kumar, Constable has been let off with stoppage of 10 future increments. There is no dispute that on the basis of similar allegations, husband of the petitioner No. 1 has been dismissed from service and Surinder Kumar, Constable has been retained in service by imposing penalty of increments only. Both the employees had produced forged matriculation certificate. Under such circumstances how different yardsticks could be adopted by respondent No. 3, is a question to be pondered over. The enquiry in the present case has not been challenged. It is only the order of dismissal and further orders passed by the appellate and revisional authorities that are under challenge in this petition. Once the

allegations of misconduct have been proved in the departmental enquiry and there has been no violation of principle of natural justice, it is not appropriate to interfere in the order of dismissal. The plea of the petitioners that the different and hostile treatment has been given to the deceased – Dharambir Singh, though the act of misconduct of the deceased employee and Surinder Kumar, Constable are similar, also cannot be given any credence. Article 14, which deal with the principle of equality is a positive concept. Now parity cannot be drawn on the basis of wrong or apparently illegal order.

I do not think that the petitioners are entitled to any relief on that basis as well.

Though the petitions are not entitled to any relief claimed for, however, it is a serious matter that on the similar facts different punishments have been

awarded by the same person without any lawful basis.

In view of the above, the Director General of Police, Haryana is directed to look into the matter and examine how respondent No. 4 has awarded different kind of punishment to the deceased Constable Dharambir Singh and Surinder Kumar Constable when both of them are guilty of securing employment on the basis of a forged and fabricated matriculation certificate. After examining the same, appropriate action be taken within a period of four months with intimation to this Court, which would be placed before this Court. [Emphasis supplied]”

As per the above directions given by this Court, the Director General of Police, Haryana, issued a Show Cause Notice to the petitioner so as to why he be not dismissed from service. After receiving his reply and considering the same, vide order dated 07.10.2010, the petitioner was ordered to be dismissed from service.

The petitioner preferred an appeal against the above order of

dismissal, which through order dated 24.02.2015, was dismissed, which gave a cause to the petitioner to approach this Court for the above referred reliefs.

I have heard learned counsel for the petitioner and with his able assistance, have also gone through the record of the case.

In the regular departmental inquiry conducted against the petitioner, he was found guilty of forgery and fraud. The Inquiry Officer found the petitioner to have forged his Matriculation Certificate by changing his date of birth therein and applying on the basis thereof for enrollment as a Constable. If his original date of birth had not been changed, the petitioner being overage would have not entitled to be considered. Therefore, with mala fide intention, the petitioner was found to have changed his date of birth.

The Inquiry Report is dated 14.05.2002, but the same remained unassailed till the filing of the present writ petition, which was filed only in the year 2015.

Once the findings of forgery and fraud have been established against the petitioner, he deserves no leniency, especially when seeks retention in a discipline force. In fact, I find that the petitioner has been dealt with rather leniently. Such cases are deserved to be dealt with an iron fist, not only to keep elements like the petitioner out of the police force, but also to act as a deterrent for others. I have no doubt in my mind that the

order, dismissing the petitioner from service, passed by the Director General of Police, Haryana and upheld in appeal by the Additional Chief Secretary, Department of Home, Haryana, requires no intervention on my part.

Learned counsel for the petitioner submitted that since the petitioner had put in twenty years of service, he did not deserve the extreme penalty of dismissal. I am not inclined to accept the submission. As observed above, a person like the petitioner, who has committed fraud and forgery, has no place in the police force, irrespective of the years of service he has put in. In fact, his induction into the police force itself is fraudulent and based on forgery. He cannot be allowed to continue even for a day as a Member of police force after the charge of fraud and forgery on his part has been proved.

In view of above, finding no merit in the present writ petition, the same is ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

August 31, 2015
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