

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 61 of 2015 (O&M)
Date of decision: 6.1.2015

Radhey Shyam

.. Petitioner

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. R. K. Malik, Senior Advocate with
Mr. T. P. Dhull, Advocate for the petitioner.

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Rajesh Bindal J.

From time immemorial, in our culture, the teacher has been the most respected person. He has been assigned pedestal even above Almighty God, which is evident from the following verses:

*“Gurur brahma Gurur vishnu Gurur devo maheshwara
Guru sakshat parabrahma tasmai shri gurave namaha
akhanda mandalakaram vyaptam yena characharam
tat padam darshitam yena tasmai shri gurave namaha*

When translated in English it means:

Guru is Brahma. Guru is Vishnu. Guru is Shiva. The true Guru is the Highest, formless God. I prostrate before the holy Guru. The unbounded is the endless canopy of the sky, the omnipresent in all creation both animate and inanimate. I bow to Shri Guru who reveals to us the ultimate reality.

The famous saint Kabir in the 15th Century eulogised the teacher in the following couplet:

Guru Govind dou khade, kaake laagoon paye

Balihari guru aapki, Govind diyo milaye.

When translated in English it means:

I face both God and my guru. Whom should I bow to first ?

I first bow to my guru because he's the one who showed me the path to God.”

In the case in hand, the petitioner, who was a teacher, was found guilty of obtaining a fake degree for the purpose of getting certain service benefits.

The petitioner, who was serving as S.S. Master, has approached this court impugning the order dated 9.5.2012 (Annexure P-3), vide which he was dismissed from service; the order dated 23.8.2012 (Annexure P-5), vide which the appeal filed by him was dismissed and the order dated 9.12.2014 (Annexure P-10), vide which the review against the order passed in appeal was dismissed.

Learned counsel for the petitioner submitted that the petitioner was appointed as S. S. Master and joined his service on 8.11.1991. He was placed under suspension on 17.1.2004 due to involvement in a criminal case, but was reinstated on 5/27.7.2005. The petitioner was issued charge-sheet to which he filed reply. During enquiry, though the charge regarding obtaining of fake degree of M.A. was proved, however, it was not proved that the petitioner ever got any benefit on the basis of the aforesaid fake degree. After the enquiry, notice dated 9.4.2012 was issued to the petitioner to show cause as to why punishment of dismissal from service be not imposed, to which the petitioner filed reply. Vide order dated 9.5.2012, the petitioner was dismissed from service. In first appeal, order of dismissal was upheld by the appellate authority vide order dated 23.8.2012. The second appeal filed against the order dated 23.8.2012 was dismissed vide order dated 9.4.2013. Having come to know that another teacher, who was similarly placed, had been inflicted punishment of pre-mature retirement from service, the petitioner filed review application dated 30.4.2014, which was not entertained, vide communication dated 9.12.2014.

Learned counsel for the petitioner, while assailing the order of dismissal from service, submitted that once the petitioner and the other teacher, who had also got a fake degree of Post Graduation, were similarly placed, there should not have been any discrimination in awarding punishment. The petitioner has been dismissed from service, whereas Manohar Lal was awarded punishment of compulsory retirement. The petitioner never availed any service benefit on the basis of the aforesaid fake degree. He further submitted that the petitioner had unblemished record till such time he was dismissed from service. In fact, he was cheated as the certificate issued to him, which was found to be fake, was not pertaining to the examination, in which he appeared.

Heard learned counsel for the petitioner and perused the paper book.

The petitioner joined service as S. S. Master on 8.11.1991. On account of his involvement in a criminal case pertaining to production of a fake degree of M.A. for seeking promotion, he was placed under suspension on 17.1.2004, but was later on reinstated. He was issued a charge-sheet. Finding reply to the charge-sheet to be not satisfactory, enquiry officer was appointed on 11.5.2010. The charges against the petitioner in the departmental enquiry were as under:

- “1. During the enquiry by the Incharge, Crime Investigation Department, Crime Branch, Hisar it came to the notice that he had obtained the bogus certificate of M.A. English Degree/Certificate in collusion with University, Jhansi vide roll No. 89466 in the year 1998.
2. That he on the basis of this bogus certificate send his case to Sub Divisional Education Officer, Rewari in 1999 for the promotion to the post of Lecturer English in Haryana Education Department through proper channel and which was forwarded vide case No. E-T/99/94 dated 15.2.1999 to the office of District Education Officer, Rewari forwarded it to Directorate vide letter No. E-T/99/543 dated 2.4.99 through proper channel for

promotion by Directorate order no. 15/42-99 E-4(2) dated 15.3.2000 he was promoted to the post of English Lecturer and accepted the post of English Lecturer in Govt. Senior Secondary School, Bikaner.”

Vide enquiry report dated 28.2.2012, the charges against the petitioner were proved. The enquiry officer found that though the petitioner had appeared in the examination but did not pass the same. The marks-sheet/degree produced was fake. The petitioner had staked his claim for promotion as Lecturer in English on the basis of fake degree of M.A. The order of promotion was also passed on 15.3.2000. However, it is claimed that actual benefit thereof was not taken. After receipt of the enquiry report, a show cause notice was issued to the petitioner. After considering the reply filed by him and also affording him opportunity of hearing, the disciplinary authority opined that the petitioner got a fake degree of M.A. in English from Bundelkhand University, Jhansi and availed the benefit of the fake degree. He applied for promotion to the post of Lecturer in English and got the same. He continued serving as Lecturer for quite some time. The relevant para of the order of punishment dated 9.5.2012 is extracted below:

“Now, again, after going through the complete record of the case, inquiry report submitted by Inquiry Officer and all representations of Sh. Radhey Shyam, I am considered of the view that Sh. Radhey Shyam got fake certificate/degree under Roll No. 89466 year 1998 of MA in English from Bundelkhand University, Jhansi and availed benefits of fake degree. He applied for promotion to the post of Lecturer English and got promotion through that fake document. He not only got benefits i.e. promotion through fake degree but continued as Lecturer for a long period. I am not inclined to take lenient view in such type of cases especially in the Education Department where it is the primary and moral duty of masters to teach a lesson of honesty and hard work to the students.”

The petitioner preferred statutory appeal against the order of dismissal. The same was dismissed vide order dated 23.8.2012. It has been so recorded by the appellate authority in the aforesaid order that at the time of hearing, the petitioner admitted that he applied for promotion in good faith and after receiving the order of promotion, joined on the post of Lecturer and continued serving. Thereafter, the petitioner preferred second appeal. The same was also dismissed vide order dated 9.4.2013. The issue regarding acquittal of the petitioner by the court in the FIR giving him benefit of doubt was also discussed.

Thereafter, the petitioner filed review application on 30.4.2014 claiming that one Manohar Lal, who was similarly placed, had been awarded punishment of compulsory retirement, hence, the review filed by the petitioner should have been entertained.

Considering the submissions made by learned counsel for the petitioner, I do not find any merit in the submissions made. No provision, as contained in Haryana Civil Services (Punishment and Appeal) Rules, 1987 (for short, 'the Rules') has been cited, which enables an employee to file a review petition against an order passed. Review is a creation of statute and not vested in any authority inherently, hence non-entertainment thereof by the authority cannot be said to be erroneous. The stand of learned counsel for the petitioner that a right has been given to an employee to file a memorial is also to be noticed and rejected for the reason that no rules or instructions governing the subject, as are envisaged in Rule 19 (2) of the Rules, have been referred to in support of the claim.

The plea taken by learned counsel for the petitioner that no benefit of the fake degree was taken by him was found to be incorrect by the punishing and the appellate authorities. Rather, while appearing before the appellate authority, the petitioner himself admitted this fact, hence, to state that the petitioner never availed of the benefit of the fake degree is totally wrong.

Even if the case is considered on merits, in my opinion, the petitioner deserves punishment of dismissal from service. He was a teacher, a role model for the coming generation. In case, he is permitted to indulge in

such activities, where for seeking promotion he can be permitted to produce a fake degree and after having got promotion is permitted to plead that leniency be shown to him, the same will send a wrong signal to all concerned. We need to nip the evil in the bud. In such cases, the employee is liable to be granted the maximum punishment so as to serve as a deterrent to all others not to indulge in such activities. Recovery of extra amount drawn by such a person on account of a fake degree produced is also a matter to be examined by the authorities in such cases. What kind of teacher the petitioner had been or could be, can very well be imagined from the fact that he himself was indulging in getting fake degree while in service and teaching the students at elementary level. Educational institutions are temples of learning and a teacher is a kind of priest thereof. The qualifications and character of a teacher are very important. A teacher plays pivotal role in moulding the career, character and moral fibres and aptitude for educational excellence in impressive young children. The teacher is adored as Gurudevobhava, next after parents. He is engine of the education system. He is a principal instrument in awakening the child to cultural values. His qualities should be such as would inspire and motivate into action the benefitter. Reference can be made to the judgment of Hon'ble the Supreme Court in Adarsh Shiksha Mahavidyalaya and others v. Subhash Rahangdale and others, (2012) 2 SCC 425.

The petitioner, in fact, had already taken undue advantage of delay in processes on the basis of a fake degree as he was promoted in March, 2000 and continued serving as such till he was dismissed from service.

Punishment of compulsory retirement from service in such kind of cases may not be the appropriate punishment for the reason that in many cases, on account of number of years of service already rendered by an employee, he may be able to get substantial retiral benefits.

For the reasons mentioned above, I do not find any merit in the present petition. Accordingly, the same is dismissed.

Before parting with the order, this court would like to impress upon the authorities to deal with all such cases, where the teachers had

produced fake degrees for getting any benefit, whether availed of or not, expeditiously so that none should dare to think of getting a fake degree.

(Rajesh Bindal)
Judge

6.1.2015
mk

(Refer to Reporter)