

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

W.P.No.20217 of 2002

ORDER:

The Writ Petition is filed seeking to issue a writ, order or direction, more particularly one in the nature of writ of *Mandamus* declaring the impugned action of the respondents, particularly the 2nd respondent in initiating proceedings for conducting enquiry with regard to genuineness of S.S.C. certificate of the petitioner repeatedly in spite of clear report, dated 07-02-1993 and in spite of directions issued by the 1st Respondent not to take any action against the petitioner vide proceedings, dated 30-08-2000 and thereby, subjecting the petitioner to repeated enquiries, as highly illegal, arbitrary and violative of Article 14 of the Constitution of India and violative of principles of natural justice.

Vide order, dated 10-10-2002 in W.P.M.P.No.25366 of 2002 this Court granted interim stay of all further proceedings pending disposal of the writ petition.

The facts as stated in the petition affidavit are that the petitioner was initially appointed as Conductor on daily wages in pursuance of public recruitment notification. The petitioner passed S.S.C. in the year 1980 and with this qualification, he appeared for selection and after selection, he was appointed as Conductor on 25-04-1987. Thereafter, the service of the petitioner was regularized with effect from 24-11-1987 and

probation was completed on 05-12-1988.

The learned counsel appearing on behalf of the petitioner submits that the antecedents and certificates with regard to the eligibility and date of birth of the petitioner were enquired into even prior to appointment of the petitioner on daily wage conductor. Therefore, after certification by the competent authorities to the effect that antecedents of the petitioner are proper and the certificates submitted by the petitioner were found genuine, the petitioner was appointed. In fact, as per the procedure adopted by the respondents, the vigilance enquiry was also conducted with regard to selected candidates and the certificates submitted by them and upon report submitted by the vigilance wing of APSRTC, dated 15-04-1987, the petitioner was appointed on 25-04-1987 on daily wage basis. Thereafter, on a complaint submitted by the worker of the APSRTC, the Security Officer, Karimnagar, vide proceedings, dated 09-11-1992, directed for conducting enquiry with regard to genuineness of the S.S.C. qualification possessed by the petitioner, upon which again a detailed enquiry was conducted and the enquiry officer submitted report, dated 07-02-1993 stating that the allegation leveled against the petitioner that he submitted false S.S.C. certificate was baseless and false. Accordingly, the enquiry was closed.

Thereafter, again a false complaint has been made by an outsider i.e., Press Reporter, who is not at all connected with the APSRTC, stating that the petitioner was not having S.S.C. certificate and on that basis again an enquiry was initiated and

the petitioner was directed to submit a duplicate S.S.C. memo. In fact, the petitioner submitted his original S.S.C. certificate at the time of selection and as per the procedure in vogue at that time the original certificate of the selected candidates were taken by the APSRTC which will be kept in the personal file that would be maintained by the personal department. While the original memo of S.S.C. of the petitioner itself was with the respondents, the petitioner was directed to submit original S.S.C., to which the petitioner submitted that it was with the APSRTC only and he was not given back his original S.S.C. certificate. Despite, the respondents directed the petitioner to obtain a duplicate S.S.C. certificate from the S.S.C. Board.

The learned counsel further submits that as the petitioner was not having any copy of the original S.S.C. memo and apart, is not having S.S.C. roll number, therefore, the petitioner could not make any application to the S.S.C. Board. But, without considering these facts, the respondents have initiated enquiry against the petitioner by issuing charge-sheet, dated 01-08-2000.

Counter-affidavit has been filed on behalf of the 1st and 2nd Respondents whereby it is stated that the petitioner joined the job of Conductor by submitting fake S.S.C. certificate. The Vigilance Inspector of Headquarters, Hyderabad, enquired into the matter and by a letter, dated 16-05-2002 asked the D.M., KRMR to direct the petitioner to attend the enquiry. Accordingly, the petitioner was asked to attend the enquiry along with original S.S.C. marks memo vide

letter, dated 17-05-2002. The petitioner did not produce the original S.S.C. marks memo and again he was asked to obtain a duplicate S.S.C. marks memo from the Secondary Board vide letter, dated 22-06-2002, however, the petitioner failed to produce the same.

The Vigilance Inspector conducted enquiry and found that the petitioner secured total 304 marks and failed in the S.S.C. examination with Roll No.397367 of March, 1980. He failed in the examination as he had secured only 31 marks in Telugu. The Additional Joint Secretary for Commissioner, Government Examinations, Hyderabad informed vide his letter, dated 17-05-2002 that the petitioner failed in the examinations. It is further informed that no pass certificate was issued to the petitioner on the above said roll number which was produced by him at the time of recruitment of Conductor during the year 1986.

The learned counsel appearing on behalf of the respondents submits that it is evident that the petitioner cheated the Corporation and obtained employment in a fraudulent way by submitting fake S.S.C. certificate which is a serious misconduct in terms of Regulation 28 (XV) & (XXII) of the APSRTC Employees (Conduct) Regulation and the respondents are empowered to take disciplinary action against the petitioner herein.

The learned counsel further submitted that on the report of the Vigilance Inspector, the petitioner was placed under suspension vide order, dated 11-10-2002. Basing on the verification and as per the Corporation Rules in force, a charge-

sheet, dated 11-10-2002 was issued to the petitioner on the following charge :

“Charge : “For having submitted fake S.S.C. certificate at the time of recruitment of Conductors in the year 1986 with Roll No.397367 of March, 1980 and got appointment as Conductor in APSRTC during the year 1987 duly cheating the Corporation by concealing the facts willfully which constitutes a serious misconduct in terms of Reg.28(xv) & (xxii) of APSRTC Employees (conduct) Reg.,1963 read with Reg.9(1)(e)(f) of APSRTC Employees (CC&A) Reg.,1967.”

Heard the learned counsel for parties.

The fact remains that the petitioner was asked to submit original S.S.C. certificate, however, he failed to do so and stated that he does not have original certificate as he already submitted at the time of the appointment. Thereafter, the respondents asked the petitioner to submit duplicate of the same. In response to that, the petitioner stated that he does not have the photocopy of the same and also he does not have the roll number, therefore, he could not get duplicate certificate from the Board.

The fact remains that some material is with the respondents and the respondents want to initiate enquiry. If some material is found against the petitioner in the enquiry, the action would be taken accordingly, otherwise, no harm would be caused to the petitioner.

I find force in the submission of the learned counsel for respondents that as per the settled law the enquiry initiated by the respondents cannot be stopped at the initial stage. The

enquiry could only establish whether any misconduct has been committed by the petitioner.

In view of the above, I find no merits in the writ petition and the same is accordingly dismissed. Consequently, the stay granted by this Court by order, dated 10-10-2002 in W.P.M.P.No.25366 of 2002 is hereby vacated.

Consequently, the respondents are at liberty to initiate enquiry. However, I made it clear that since the petitioner is in service from the year 1987, the respondents shall maintain *status quo* as far as his employment is concerned. After conducting the enquiry if it is established that certificate submitted by the petitioner was fake, the respondents are at liberty to take action as per the law. Needless to state that the petitioner shall participate in the enquiry and the respondents shall adopt the procedure of enquiry as per law.

No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

SURESH KUMAR KAIT, J.

Date: 22-06-2016

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