

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

219

**CWP No. 15976 of 2013(O&M)
Date of decision:25.10.2016**

Kulbir Singh

.... Petitioner

Versus

The Punjab State Power Corporation Limited, Patiala and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Ram Lal Gupta, Advocate for the petitioner.

Mr. Vivek Sharma, Advocate for respondents No. 1 to 3.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has assailed the award passed by the Labour Court dated 14.02.2013 vide Annexure P24. The petitioner was appointed as Junior Plant Attendant in the respondent corporation. His services have been terminated on 03.07.2001 on the allegations that at the time of his appointment he had produced fake B.Sc certificate dated 17.11.1994 vide Annexure P5. Admittedly, the petitioner was not subjected to disciplinary proceedings before terminating his services on 03.07.2001. He being permanent employee, the respondent corporation should have resorted to disciplinary proceedings under the statutory provisions. It is learnt that after holding a preliminary inquiry the respondent corporation have resorted to terminate the services of the

petitioner on the score that he has produced fake B.Sc. certificate dated 17.11.1994. Order of termination dated 03.07.2001 was the subject matter before the Labour Court. The Labour Court confirmed the order of termination.

2. Learned counsel for the petitioner submitted that the petitioner was appointed on permanent basis. Before terminating the petitioner's services the inquiry should have been held for the reasons that production of fake certificate is a serious misconduct to obtain appointment in the respondent-corporation. The said contention was not appreciated by the Labour Court. Therefore, Labour Court finding as well as order of termination are liable to be set aside.

3. On the other hand, learned counsel for the respondent-corporation submitted that the petitioner while joining service, he had produced fake B.Sc. certificate dated 17.11.1994 which is proved in the preliminary inquiry. Therefore, there is no illegality in order of termination as well as order passed by the Labour Court so as to interfere with the order of termination and award passed by the Labour Court.

4. Heard learned counsel for the parties.

5. Admittedly, the petitioner is permanent employee of the respondent-corporation. If an employee of the corporation commits any misconduct he would be subjected to disciplinary proceedings under the statutory rules. The allegation is that the petitioner has produced a fake B.Sc. Certificate dated 17.11.1994. To determine that B.Sc. certificate dated 17.11.1994 is fake or not, the matter is required to be examined in the disciplinary proceedings by adducing evidence from the author of the Annexure P5 dated 17.11.1994 i.e. Magadh University, Bodh Gaya.

Validity of the Annexure P5 B.Sc. Certificate dated 17.11.1994 could be determined whether it is a genuine or fake only by the Magadh University, Bodh Gaya. Such determination can be made only in the disciplinary proceedings by calling the concerned record as well as examination and cross examination of author of the documents. Moreover, as long as Annexure P-5, B.Sc. certificate dated 17.11.1994 is not cancelled by the competent authority irrespective of whether it is genuine or fake, the petitioner is entitled to benefit out of said certificate. Therefore, by merely holding a preliminary inquiry behind the back of the petitioner and coming to the conclusion that B.Sc. Certificate dated 17.11.1994 vide Annexure P5 is fake is untenable. Hence, the order of termination dated 03.07.2001 as well as the award of the Labour Court dated 14.02.2013 vide Annexure P24 are set aside and writ petition stands allowed. The respondents are directed to reinstate the petitioner within 3 months from today and to pay monetary benefits for the intervening period from the date of termination till reinstatement into service.

6. The respondents are at liberty to proceed with the inquiry in accordance with law to find out whether certificate Annexure P5 is genuine or not. Such inquiry proceedings shall be taken up by the respondent-corporation within a period of 6 months and complete the same in accordance with law.

25.10.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No