

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P. No. 15204 of 2015

Reserved On : February 09, 2016

Pronounced On : April 22, 2016

Desh Raj 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. Arvind Rajotia, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of order dated 15.07.2015 (Annexure P-5), through which, his services as a Driver (heavy transport vehicle) have been terminated. The petitioner has further prayed for issuance of a direction to the respondents to reinstate him with full back wages along with continuity in service and other consequential benefits.

The basic facts, which need to be noticed for adjudicating upon the instant writ petition, are that in December 2012, the State Transport

Department, Government of Haryana, invited applications for appointment of Heavy Vehicle Drivers (on contract basis). The prescribed qualifications were that a candidate should be Matriculate with Hindi/Sanskrit from a recognized Board or University, should be holding a valid transport vehicle driving license and having a minimum of two years' experience of driving a heavy goods vehicle including proficiency in driving heavy passenger motor vehicle or ten years' experience in driving a vehicle in the Armed Forces.

In pursuance to the aforesaid advertisement, the petitioner applied for consideration of his candidature and being successful in the selection process, was offered appointment, however, with the following rider incorporated in the terms of his appointment :-

“Attested copies of educational and professional qualifications and Matriculation certificates shall be furnished. The documents pertaining to your qualification, experience, age and caste/category, as claimed by you in the application form shall be got checked/verified by the concerned General Manager, Haryana Roadways. If it is found that there is material discrepancy in the educational/professional qualifications, age, caste, reservation benefit under Ex-serviceman or outstanding sportsman etc. and experience that you had claimed in the application then this offer of appointment shall be treated as null and void.”

[Emphasis supplied]”

A perusal of the afore-quoted term and condition of appointment show that the appointment of the petitioner was subject to the verification of his submitted documents and if it was found that there was any material discrepancy in the educational/professional qualifications etc., as claimed by him, then the offer of appointment would be treated as null and void.

The record reveals that after the verification of the petitioner's Matriculation Certificate (Annexure P-3), it was found that the Board of Higher Secondary Education, Delhi (hereinafter referred to as – the Board), from where the petitioner had claimed to have passed his Matriculation examination, was not recognized. On that basis, a Show Cause Notice was issued to him as to why, as per the terms of his appointment, his services may not be dispensed with, to which he filed a reply, after consideration of which, the impugned order, terminating the services of the petitioner, was passed.

After considering the submissions made by the parties and perusing the record, I am of the opinion that the present petition must fail.

As per the terms of eligibility prescribed in the advertisement, only those candidates, who had passed their Matriculation examination from a recognized Board, were to be considered eligible for appointment. On the repeated queries posed by the Court, learned counsel for the petitioner was not able to show any document by any statutory Authority granting recognition to the Board, from where the petitioner claims to have

passed his Matriculation examination. Rather, a perusal of the affidavit filed on behalf of the Union of India in a connected matter being **C. W. P. No. 17499 of 2015 – Raffik Mohmad vs. State of Haryana and others**, to which there is no rebuttal by the petitioner, shows that the Board of Higher Secondary Education, Delhi, from which the petitioner claims to have passed his Matriculation examination, is not recognized by the Ministry of Human Resources and Development, Government of India. The relevant portion of the affidavit is reproduced below for ready reference :-

- “4. That the three Education Boards, namely Board of Secondary Education, Madhya Bharat, Gwalior, Board of Higher Secondary Education, New Delhi and Council of Secondary Education, Mohali, as mentioned in the order dated 01.10.2015 (Annexure-A1) of this Hon'ble Court are neither set up nor recognized by MHRD.
5. *That MHRD, in order to ensure that innocent students do not become victim of unscrupulous and illegal activities of fake/unrecognised boards, had issued an advisory on 20.11.2008 (Annexure-A3) to all Education Secretaries of the State Governments and Union Territories and Chairpersons of CBSE and NIOS for prevention of functioning of fake boards within their defined territorial jurisdiction, as stipulated in the State Education Acts or Rules. It is thus imperative that every State and Union Territory ought to have a*

provision to regulate recognition of Education Boards, conduct of public examination and issue of certificates by such Boards. The States/UTs are expected to function as watchdogs so that fake institutions, calling themselves examination boards and issuing certificates, do not operate under their territorial jurisdiction and if any such Boards exist, they should have appropriate mechanism to deal with such fake Boards. [Emphasis supplied]”

The reliance of the learned counsel for the petitioner on the judgment of the Allahabad High Court in **District Basic Education vs. Asha Pandey – LAWS (ALL) – 2013-3-162** which is based on a letter of the Government of India dated 28.02.1964, in view of the aforesaid affidavit filed on behalf of the Government of India, also does not further his case. In this regard, a letter dated 14.01.2013 of the Government of India, which is attached as Annexure A-4 to the aforesaid affidavit, filed on behalf of the Government of India, may also be referred to, in which it has been specifically stated that the letter dated 28.02.1964 was never issued by the Government of India and was a fake document. The relevant portion of the letter dated 14.01.2013 is reproduced below :-

“2. On the examination of papers received from Joint Secretary of the Board claiming a prior recognition from Ministry of Human Resource Development, it is found that letters No. F-46-1/67-S.U. dated 28th February, 1964, No. 1808/2009/SKT-1 dated 26.06.2009 and No. 8-

21/2011-DS&HE dated 12th November, 2011, supposed to have been issued from the Ministry of HRD, are fake. Use of the above letters for vested interests is highly objectionable as the Board is misleading the students and parents in the name of Ministry of HRD and mounts to a criminal act.”

Learned counsel for the petitioner further relies on a judgment of Delhi High Court in **WP (C) No. 5135 of 2003 – Nek Mohammad vs. Union of India and others**, decided on 04.06.2010, a perusal of which shows that the Board, qua which the judgment was rendered, was the Central Board of Higher Education, New Delhi, whereas the Board, from which the petitioner claims to have passed his Matriculation examination, is Board of Higher Secondary Education, New Delhi. There is nothing placed on the record to show that both the Central Board of Higher Education, New Delhi and Board of Higher Secondary Education, New Delhi are the same. Even otherwise, that judgment shows that the same was based on a counter affidavit filed by the respondents in that case before that Court, in which it was admitted that the Board in question therein had been recognized by the State Governments and the Universities. Paragraph 13 of the judgment is reproduced below for ready reference :-

“13. *In the counter affidavit which has been filed before this court, the respondents admit that the Board has been recognised by the aforesaid state governments and the universities.*

The only contention of the respondents is that the board is not listed in the accredited institutions and programmes

recognised by the Ministry of Human Resource Development, Department of Education and the Central Board of Secondary Education.”

In the case in hand, a specific affidavit has been filed on behalf of the Government of India in **Raffik Mohmad's** case (*supra*), as referred and quoted above, which is to the effect that the Board in question is not recognised by the Government of India. Thus, the petitioner can derive no benefit of the judgment of the Delhi High Court in **Nek Mohmmad's** case (*supra*).

The next argument raised by the learned counsel for the petitioner is that the Board of Higher Secondary Education, New Delhi is recognized under the Uttar Pradesh Educational Act, 1921 (hereinafter referred to as – the 1921 Act) also deserves to be considered and rejected. On repeated queries posed by the Court to the learned counsel for the petitioner to refer to the relevant provision of the 1921 Act to show the Schedule attached to the 1921 Act containing the name of the Board in question, as also the date till which the Act remained in force, yielded no response. Only a list of institutions, purportedly attached to the 1921 Act, was produced, a translated version of the relevant portion of which is reproduced as under :-

“14. *Examination of High School of Central Board of Secondary Education, Ajmer (which was earlier known as Board of High School and Intermediate Education Rajputana (including Ajmer and Marwar), Madhya Bharat and Gwalior Ajmer and later named as Board of*

*High School and Inter Education, Ajmer, Bhopal
and Vindhya Pradesh, Ajmer).*

A perusal of the afore-quoted entry recognizes a Board situated at Ajmer and not the Board in question, which is the Board of Higher Secondary Education, Delhi.

In view of the above, the reliance of the learned counsel for the petitioner on the 1921 Act is also misplaced.

Once the Board has no statutory backing, having not been recognized by any statutory Authority and is found operating on the basis of fake and forged letters of recognition, there is no hesitation in my mind to hold that the petitioner did not possess the prescribed qualifications and that the Matriculation qualification, claimed to have been passed by him, has no recognition in law.

Resultantly, the present petition is ordered to be dismissed.

No costs.

**(DEEPAK SIBAL)
JUDGE**

Pronounced On : April 22, 2016

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