

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17220 of 2014

DATE OF DECISION: JANUARY 18, 2016

UNION TERRITORY, CHANDIGARH & OTHERS ...PETITIONERS

VERSUS

PARAMJIT KAUR & OTHERS ...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE RAJ MOHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. JAIVIR SINGH CHANDEL, ADVOCATE
AND MR. VIKRAM VIR SHARDA, ADVOCATE
ADDL..GOVT. PLEADERS FOR THE PETITIONERS-U.T., CHD.

MR. AMAN CHAUDHARY, ADVOCATE
FOR THE RESPONDENT NO.1.

M. JEYAPPAUL, J.

1. Respondent No.1 Paramjit Kaur challenged the order dismissing her from service passed by the writ petitioners herein in culmination of the inquiry initiated against her for producing a fake certificate from a University which was not recognized by the University Grants Commission.

2. Respondent No.1 Paramjit Kaur was appointed as Nursery Teacher on 1.8.1994. The disciplinary proceedings were initiated against her on the charge that she produced educational certificates of Matric and Intermediate from a fake Univeristy, namely, Varanaseya Sanskrit Vishwa Vidyalaya, Varanasi. Pursuant to the disciplinary proceedings, she was dismissed from service on 2.12.2009. The appeal preferred by respondent

No.1 was rejected on 21.5.2010. The conclusion arrived at in the inquiry was that respondent No.1 obtained her appointment on the basis of education qualifications/certificates secured from a fake University. It is to be noted that the inquiry officer arrived at a conclusion that there was nothing to prove that she had concealed the information when sought for from her.

3. Learned counsel appearing for the writ petitioners vehemently submitted that the Tribunal simply followed the directions issued in **Ram Bhagat Sharma vs. State of Haryana, 1997(4) SCT 820** without advertting to the distinguishable facts of the case which persuaded this Court to pass such a direction therein. Learned counsel appearing for the writ petitioners also referred to three other decisions to support his submission that dismissal of an employee on the ground that he/she produced fake certificate to secure appointment cannot be interfered with.

4. *Per contra*, learned counsel appearing for respondent No.1 contended that the facts of the case narrated in **Ram Bhagat Sharma** (supra) are very much similar to the facts and circumstances arisen in this case. He also made an attempt to distinguish the factual scenario in the other cases referred to by the learned counsel appearing for the writ petitioners to fortify his plea that the claim of respondent No.1 who was not aware of the derecognition of the University from where she obtained Matric/Intermediate certificate will have to be accepted.

6. It is an admitted fact that Varanaseya Sanskrit Vishwa Vidyalana, Varanasi was derecognized by the University Grants

Commission at the time when respondent No.1 studied and obtained Matric and Intermediate certificates from the college run by the said University. The inquiry report in the disciplinary proceedings initiated against respondent No.1 disclosed that the said University was a fake University and that therefore, respondent No.1 could not base her claim for appointment on the strength of those Matric and Intermediate certificates produced by her. It is to be noted that the inquiry officer has arrived at a very important conclusion that there was nothing to prove that respondent No.1 concealed the information when sought for from her.

7. It is a case where there is no material to show that respondent No.1 was aware that the University who had domain over the college in which she studied and obtained Matric and Intermediate certificates was a fake University as it was derecognized by the University Grants Commission. It is not a case where respondent No1 with a *mala fide* intention was a party to the issuance of such certificates to her. It appears that she had studied in the college run by the University and obtained such certificates without actually knowing that it was a University which was derecognized by the University Grants Commission. At any rate, with such certificates issued by a fake University she cannot continue in service. But the question that survives for consideration is whether she can be given an opportunity to qualify herself on compassionate ground that she had already put-in about 5 years of service without knowing the consequences of the certificates obtained by her.

8. In Ram Bhagat Sharma (supra), a co-ordinate Bench of this

Court has held as follows:-

“In the result, the writ petitions are dismissed. With a view to protect the interest of the students community, we direct the Government of Haryana to take steps to prevent future recruitment of persons possessing qualifications awarded by Hindi Sahitya Sammelan, Allahabad, and/or Hindi Sahitya Sammelan, Prayag, Allahabad, and at the same time take appropriate measures to dispense with the services of unqualified teachers. For this purpose, the Government of Haryana is directed to issue written instructions to all concerned that in future no appointment be given to the persons possessing qualifications by the institutions referred to here-in-above. We also direct the Government of Haryana to take steps for terminating the services of all such teachers who have secured employment on the basis of degrees/diplomas/certificates issued by Hindi Sahitya Sammelan, Allahabad and/or Hindi Sahitya Sammelan, Prayag, Allahabad. However, those who have completed three years service should be given an opportunity to acquire the requisite qualification within a stipulated time. In case they fall to acquire such qualification, then appropriate order be passed to dispense with the services of such persons.”

9. In the above case also, the certificate obtained from a fake University was produced. The co-ordinate Bench of this Court has held that

such a person cannot be given an appointment on the basis of production of a fake certificate. But considering the length of service he/she had put-in, an opportunity was given to acquire the requisite qualification within a stipulated time.

10. In our considered view, the above decision squarely applies to the facts and circumstances of this case. The Tribunal has rightly relied upon the above decision before giving a direction to the writ petitioners herein to reinstate respondent No.1 in service after properly verifying the genuineness of her certificate of Matriculation she has obtained from Punjab School Education Board in 2010.

11. Learned counsel appearing for the writ petitioners referred to the decision of the Hon'ble Supreme Court in **Secretary, A.P. Swre I Society vs. J.Prathap and others, 2002 (10) SCC 430**, wherein it has been held that the respondents who produced fake degrees while securing employment cannot validly challenge the punishment of termination. It has been held therein that there was no justification for the High Court to have shown magnanimity in a matter where degrees were produced to secure appointment which was terminated after proper inquiry.

12. That was a case where respondent No.2 therein obtained provisional certificate paying a sum of 7000/- even without appearing for the B.A. Examination. The respondent No.2 therein was a privy to fabrication of provisional certificate. Having bribed the culprit, he had secured a provisional certificate and produced the same for securing appointment. But in the instant case, even as per the inquiry report there

was nothing to prove that respondent No.1 herein ever suppressed anything in connection with the production of the certificate from the fake University. In the instant case, it is found that respondent No.1 was not at all aware of the fact that she had secured a certificate from a fake University. In other words, respondent No.1 herein is found to be a victim of circumstances. Therefore, the above ratio will not apply to the special facts and circumstances of this case.

13. In *Dy.Secretary to Govt., Prohibition and Excise Deptt., St.George, Madras vs. A.Bappu, 1996(2) SCT 217*, the question that arose for determination in the above ratio was whether the police investigation as well as the departmental enquiry initiated against an employee who produced a fake certificate could be quashed by the learned Central Administrative Tribunal. Inasmuch as there was a serious charge that the employee produced a fake certificate in the above case, the Hon'ble Supreme Court made an observation that the departmental enquiry shall be conducted as there was a serious charge of production of fake school certificate for entering into service. We do not find that the above observation made by the Hon'ble Supreme Court would have any relevance to the facts and circumstances of this case.

14. Let us now take up the last decision referred to by the learned counsel appearing for the writ petitioners in *Karan Singh Maharana vs. Assistant General Manager (HRD), Oriental Bank of Commerce, New Delhi, 2007(5) SLR 823*. The termination of an employee who produced educational qualification certificate from the very same fake University,

namely, Varanaseya Sanskrit Vishwa Vidyalana, Varanasi, in culmination of the disciplinary proceedings initiated against him was upheld by the co-ordinate Bench of this Court.

15. In the above case, the issue as to whether an opportunity should be given to the employee who has unwittingly studied in a college run by fake University and secured a certificate did not crop-up for consideration. But in Ram Bhagat Sharma (supra), the above issue was taken up for active consideration and it was ordered that an opportunity will have to be afforded to the employee who had put-in more than 3 years of service to acquire the required qualification. Therefore, the decision in Karan Singh Maharana (supra) does not come to the rescue of the writ petitioners.

16. In our considered view, the Tribunal has rightly relied upon the decision in Ram Bhagat Sharma (supra) and directed reinstatement of respondent No.1 in service after properly verifying the genuineness of the certificate of Matriculation secured from Punjab School Education Board in 2010.

17. In view of the above, we find that there is no merit in the writ petition and, therefore, it stands dismissed.

**(M. JEYAPPAUL)
JUDGE**

January 18, 2016
Gulati

**(RAJ MOHAN SINGH)
JUDGE**