

CWP No.809 of 2013

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.809 of 2013

Date of decision: 13.07.2016

Mohan Singh

....Petitioner

Vs.

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Rajesh Kumar, Advocate for
Mr. Manoj Kumar, Advocate for the petitioner.
Mr. A.D.S Bal, Advocate for respondent No.6-PSEB.
Mr.Inder Pal Goyat, Addl. A.G, Punjab.

Jaswant Singh, J

Petitioner, who was working as Constable with the Commandant, 4th Batallion, Indian Reserve Batallion, Jalandhar Cantt-respondent No.5, is seeking a writ of Certiorari for quashing of the impugned orders dated 04.10.2010 (**P.19**), 28.01.2011 (**P.20**) and 03.08.2011 (**P.22**) passed by respondent Nos.5,4 & 3 respectively dismissing him from service and upholding the order while dismissing the appeals filed by him.

It is not in dispute that the petitioner was recruited as Constable with respondent No.5 on 16.9.2002 being Matriculate, who submitted his Matriculation Certificate bearing Roll No.424260 (R.1), the relevant part of which reads as under:

*"Certified that Mohan Singh son of Shri Jagir singh and of Govt. High School Mirthal (Gurdaspur) passed Matriculation Examination of this Board in March 1987 obtaining 408 marks out of 800 marks in the second Division. Xxx
xxxx Date of Birth Tenth April One Thousands Nine Hundred and Seventy one (10.4.1971)"*

It is necessary to mention here that in support of the aforesaid Certificate, an affidavit dated 31.8.2002 (R.2) was also submitted by the petitioner to the respondents at the time of entering into service. As a general procedure prescribed for the new entrant, a request for verification of the Educational Certificate was sent to the Secretary, Punjab School Education Board, Mohali by respondent No.5 vide letter dated 13.11.2002, who in turn submitted its report dated 26.11.2005 (R.4) intimating that the Certificate/result of the petitioner does not tally with his Matriculation Certificate and the relevant part of the communication dated 26.9.2005 by the Education Board reads as under:

<i>S. No</i>	<i>Name and father's name</i>	<i>Roll number/year/exam and session</i>	<i>Certificate/C and S.No.</i>	<i>Verification report</i>
1	Mohan Singh son of Jagir Singh	424260 Matric man 87	8T7U 100090	As per office record in matriculation March-87 examination in the Gurdaspur District School the roll number from 280001 to 355000 are allotted in the year 1987 meaning thereby that this roll number is not allotted to this school

Needless to say initially a preliminary inquiry was conducted

in the matter and subsequently a regular departmental inquiry was ordered and the Inquiry Officer submitted his inquiry report dated 01.8.2009 thereby proving the charges against the petitioner. Thereafter, a show cause notice dated 10.8.2009 was served upon the petitioner and he submitted his reply on 02.9.2010 and after consideration of the same, respondent No.5 while agreeing with the inquiry report dismissed the petitioner from service vide the impugned order dated 04.10.2010 **(P.19)**. An appeal was preferred by the petitioner against dismissal order to respondent No.4, which has been dismissed vide order dated 28.1.2011 **(P.20)** by the DIG (IRB). Thereafter another appeal filed against both the orders has also been dismissed vide order **(P.22)** by the I.G (IRB)-respondent No.3.

It is also worthwhile to note here that an FIR No.53 dated 28.7.2006 was also registered against the petitioner under Sections 420,465,467,468,471 P.S Cantt, Jalandhar, however, vide judgment dated 14.9.2012 **(P.23)** passed by Judicial Magistrate, Ist Class, Jalandhar, he was acquitted of the charges.

Learned counsel for the petitioner contends that the impugned order of dismissal dated 04.10.2010 (P.19) passed by respondent No.5 and also the orders dated 28.01.2011 and 03.08.2011 passed by the Appellate Authorities i.e respondent Nos.4 & 3 respectively are unsustainable in view of the fact that on the similar allegations, the petitioner has been acquitted by a court of competent jurisdiction in FIR No.53 dated 28.7.2006 registered under Sections 420,465,467,468,471 P.S Cantt, Jalandhar vide

judgment dated 14.9.2012 (P.23). Even otherwise, the petitioner has not tampered with his Matriculation Certificate and wrong entry of date of birth, if any, is attributable to the Punjab School Education Board i.e respondent No.6 and not to the petitioner.

On the other hand, it is argued that on behalf of the respondents that the petitioner has been recruited on the basis of Matriculation Certificate in which his date of birth is recorded as 10.4.1971 instead of 10.1.1969 and even the Matric Certificate of the petitioner bearing Roll No.424260 has not been issued by the Punjab School Education Board and consequently the same has been confiscated by the Board.

Heard learned counsel for the parties and perused the paper book with their able assistance.

A perusal of paper book reveals that the departmental appeal of the petitioner was rejected by respondent No.3-I.G.P (IRB) vide order dated 03.8.2011 and the petitioner kept silent in the matter and after his acquittal in criminal case vide judgment dated 14.9.2012, he filed the present writ petition on 15.1.2013 i.e after a period of one year and five months of attaining the finality of the dismissal order. It seems that the petitioner had woken up after his acquittal in the criminal case by taking a plea that on the same set of allegations, the petitioner was prosecuted and ultimately not found guilty.

At the first instance, the argument seems to be attractive but the same is deceptive and not helpful to the petitioner on the following counts, namely, (i) a categoric finding has been recorded in the departmental proceedings to the effect that the

petitioner has tampered with his Matriculation Certificate regarding year of Examination from 1986 to 1987, and Date of birth from 10.4.1969 to 10.04.1971, and charges are clearly proved by the Inquiry Officer and the Inquiry report is not even under challenge; (ii) the acquittal in criminal case is subsequent to the order passed by the Appellate Authority; (iii) this Court vide order dated 15.1.2015 directed the petitioner to appear before the Secretary, Punjab School Education Board, Phase 8, SAS Nagar, Mohali on 23.02.2015 at 11:00 AM to submit his original testimonials and after verification of the same, the Board vide letter dated 05.8.2015 (placed on record vide order dated 15.3.2016 in CM No.3018 of 2016) has found that the Matriculation submitted by the petitioner is "forged" and the same has been "confiscated" and the relevant part of the same reads as under:

"That the petitioner on 23.02.2015 appeared before the Secretary, Punjab School Education Board with Matric Certificate bearing number 8T7U 100091 of the Matriculation Examination held in March, 1987 having Roll No.424260 from Government High School Mirthal (Gurdaspur) along with a representation. His representation was considered as per the records. The certificate produced by Mohan Singh son of Sh. Jagir Singh does not tally with the Gazette of Punjab School Education Board and this certificate has not been issued by the Board. Other than this, one more certificate having Roll No.424260 of March 1987 from Govt. High School Mirthal (Gurdaspur) bearing serial number 8T7U 100090 was received vide letter no.31361 dated 13.11.2002 from The Commandant 4th IRBN Jalandhar for inquiry regarding its genuineness. After inquiry this certificate was found to be forged

and the inquiry report vide letter no.1888-795/5 inquiry/certi dated 26.09.2005 had already been sent to concerned department. As a result thereof certificate bearing serial Number 8T7U 100091 has been confiscated and the representation of the petitioner has been rejected."

In view of the aforesaid discussion, no ground for interference is made out.

Dismissed.

July 13, 2016
manoj

(JASWANT SINGH)
JUDGE