

CRM-M-25662-2016

[1]

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

(Sr. No.255)

CRM-M-25662-2016

Date of Decision:-April 19, 2017

Darbara Singh

.....Petitioner

V/S

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present : None for the petitioner.

Mr. A.S. Kaler, DAG Punjab.

Respondent No.6-Raj Kumar is present in person.

A.B. Chaudhari, J. (Oral)

This petition has been filed by the petitioner for the following
relief:-

“Petition under Section 482 Cr.P.C. for issuance of appropriate order and directions to the official respondents No.1 to 5 to conduct a fair, proper and impartial enquiry to its logical end and thereafter to take appropriate necessary legal action under the relevant provisions of law against respondent No.6 who got Govt. Job by producing forged, bogus and fabricated certificate showing himself as eligible candidate though he had not passed 7th and 8th class from any school as per information supplied by respondent No.7 (Govt. Sr. Sec. School, Lalru) under RTI Act, 2005 vide Annexure P-2.”

In response to the present petition respondents No.1 to 3 have
filed the affidavit. I quote Para-3 and Para-19 in the said affidavit, which read
thus:-

“3.That the true facts of this case are that on dated 22.08.2003 the respondent no.2 had sent the letter no.11854/TA4 dated 22.08.2003 to the respondent no.3 to verify the academic certificate of the respondent

no.6 from the concerned school. In compliance of the aforementioned letter the respondent no.3 sent the letter no.15205/ECD/dated 04.08.2003 to the Head Master Govt. High School Dapper District Patiala to verify the certificate no.21900 and 040134 which were produced by the respondent No.6 at the time of his appointment for the post of driver. After the verification the Head Master Govt. High School Dapper District Patiala authenticated the aforementioned certificate and sent back to the respondent no.3 alongwith attested copies of the certificate. Therefore it is clear that certificates produced by the respondent no.6 has already been verified by the issuing authority i.e. Head Master Govt. High School Dapper District Patiala.

19.That during the inquiry the respondent no.3 called the petitioner by letter no.10045/ECD dated 15.07.2014. On dated 30.07.2014 the petitioner joined the inquiry and the inquiry officer asked the petitioner to produce the authentic evidence regarding the complaint against the respondent no.6 but the petitioner told the inquiry officer that at that time he has not and such evidence but he can produce some other day. The inquiry officer asked to the petitioner to give the statement accordingly but the petitioner refused to give the statement during the inquiry. But the petitioner failed to produce the evidence against the respondent no.3. Therefore the reasonable opportunity has been given to the petitioner during the inquiry by the inquiry officer.”

No one has put in appearance on behalf of the petitioner.

Respondent No.6-Raj Kumar is present in person and was also present on the last date of hearing i.e. on January 12, 2017, and made his grievance that petitioner is delaying the proceedings by not prosecuting the same and respondent No.6 is due to retire on 31.07.2017. He submits that because of the pendency of the petition, there is a likelihood of the petitioner being put to trouble atleast so far as his terminal benefits are concerned. Today again, respondent No.6 is present in person and makes the same grievance. None for the petitioner. Since, the respondents have filed the replies on affidavit, the present petition is taken up for final disposal on merits.

The grievance disclosed in the petition made by the petitioner is that respondent No.6-Raj Kumar was appointed as driver in the year 1983 with Punjab Roadways as driver No.166. According to the counsel for the State and even according to the petitioner, it was for the first time in the year 2002 that he made a complaint that the respondent No.6 had obtained employment by giving forged and fake school leaving certificate and, therefore, the inquiry should be made. Thereafter, he had obtained information under RTI Act, 2005 again and continued to prosecute his complaint against the present petitioner. Evidently, the petitioner was also respondent No.6's co-employee/conductor. Petitioner was initially working as driver and was then posted as conductor. He pursued his complaint to the police authorities etc. and the department as well against respondent No.6.

Perusal of the reply affidavit filed by respondents No.1 to 3, quoted by me above, by Punjab Roadways, Chandigarh clearly shows that upon investigation made by the Corporation no truth was found in the complaint made by the petitioner-Darbara Singh. Not only that, as stated in Para 19 of the abovesaid reply, the petitioner has refused to give any statement or any evidence to support his case about the respondent No.6 giving any false or forged school leaving certificate. In other words, looking to the Para-19 of the reply which has not been countered, the petitioner failed to produce any evidence against the respondent No.6, when he was given opportunity by the department.

The case of the prosecution is as under as disclosed in Para 3 to 5 of the petition:-

“3.That it is worth mentioning here that at the time of his appointment, the necessary requisite qualification for appointment of a driver in Punjab Roadways was 8th pass

and the candidate who has not passed 8th (Middle Standard) class was not eligible to be appointed as Driver in Punjab Roadways.

- 4. That it would be a relevant to mentioned here that respondent No.6-Raj Kumar has not passed 7th and 8th class but despite that he had got admission in 9th class in Govt. High School, Lalru on 22.05.1973 and alleged to had attended the school only for two days i.e. 22.05.1973 to 23.05.1973 and his admission was cancelled and was relieved from the school on 24.05.1973. His admission in 9th Class in Govt. High School, Lalru was wrong and unjust. When he had not passed 7th and 8th class from any school then he was not entitled to be admitted in 9th class in Govt. High School, Lalru.*
- 5. That the petitioner submitted first representation dated 14.10.2013 to the authority as well as the concerned department for taking necessary action against Raj Kumar-respondent No.6 as he obtained Govt. Job in Punjab Roadways as Driver by submitting forged, bogus and fabricated certificate of 9th class. A copy of the representation dated 14.10.2013 is appended herewith as Annexure P-1.”*

Apart from the fact that prosecution failed to prove his side before the department, he raked up the above issue after about two decades from the date of intial appointment of the respondent No.6 in the year 1982. From all these facts, I find that the present petition is out and out a mala fide and bogus petition.

Looking to the fact that the petitioner as well as respondent No.6 were working as drivers, it clearly appears to me that the petitioner wanted to take some revenge against respondent No.6 and obviously because the petitioner had an axe to grind against respondent No.6. At any rate, the department has found upon investigation that there was no substance in the claim of the petitioner. The fact that the petitioner filed such a complaint after about two decades, clearly shows that there was a clear motivation on the part of the petitioner in trying to trouble the respondent No.6. The petitioner also did not cooperate in the inquiry

proceedings and refused to give any statement or evidence against respondent No.6, which is clear from Para-19 of the reply. It is thus clear that the petitioner utilised the services of the department and also the authority of this Court for settling his private score. The petition is thus a clear abuse of the process of law and will have to be dismissed with exemplary costs. In that view of the matter, I make the following order:-

ORDER

1. The petition is held to be mala fide and is dismissed with exemplary costs in the sum of ₹50,000/- payable to the respondent No.6, within a period of four weeks from today, failing which the petitioner shall remain present before this Court upon expiry of the aforesaid four weeks.
2. Dismissed.

April 19, 2017

Pankaj

**(A.B. Chaudhari)
Judge**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No