

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

CWP No.12628 of 2013

Date of Decision:01.05.2017

Rishipal

... Petitioner

Vs.

Haryana Warehousing Corporation and another

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Lalit Rishi, Advocate for the petitioner.

Mr. Ashwani Talwar, Advocate for the respondents.

P.B. BAJANTHRI J. (Oral)

The petitioner has questioned the validity of order dated 19.9.2008 (Annexure P-3) and order dated 25.5.2012 (Annexure P-7) by which the petitioner has been dismissed from service and the Appellate Authority has rejected the petitioner's appeal.

The petitioner is stated to have been appointed on ad-hoc basis to the post of Godown Keeper in the office of respondent-Haryana State Warehousing Corporation (for short "Corporation"). The petitioner while working as a Godown Keeper in the Corporation, a complaint was moved by one Shri Hemant Kumar against the petitioner relating to fake matric certificate of Haryana School Education Board (for short "HSEB") furnished by the petitioner in order to obtain appointment order in the respondent-Corporation. Genuineness of the matriculate certificate held by the petitioner was subject matter of inquiry and in the inquiry, the petitioner has been given ample opportunity to produce original matriculate certificate issued by HSEB. He has failed to produce the same. Even to this date, the petitioner do not possess the original certificate so as to contend that the

petitioner has passed matric from HSEB. After holding a detail inquiry by the Inquiry Officer, a report was submitted that the petitioner do not possess the valid matric certificate of the HSEB. Pursuant to the inquiry officer's report, respondent-Corporation proceeded to dismiss the petitioner from service on 19.9.2008. Feeling aggrieved by the order of dismissal, he preferred an appeal before the appellate authority and the appellate authority rejected the appeal on 25.5.2012. Hence, the present petition.

Learned counsel for the petitioner vehemently contended that the petitioner is regular holder of the post and therefore, necessary charge-sheet is required to be filed on the basis of the complaint filed by Hemant Kumar in respect of petitioner's conduct in obtaining the appointment order in the respondent-corporation. Merely appointing an officer and holding an inquiry are not in consonance with the regulations of the Haryana State Warehousing Corporation (Officer and Staff Regulations) 1994 and 2004. In support of the contention, learned counsel for the petitioner relied on a document Annexure P-6 by which the petitioner subjected to disciplinary proceedings in respect of certain allegations committed by him while discharging the post of Godown Keeper. He has also pointed out that on 3.10.2005, the respondent-Corporation have initiated disciplinary proceedings by framing charge under Rule 7. Therefore, the respondents should have resorted to framing of charge-sheet in respect of alleged production of fake matric certificate. It was also contended that petitioner had Delhi Board certificate (Annexure P-1) and the same was not taken note of. Further learned counsel for the petitioner submitted that in view of non compliance of the provisions of regulations 1994 and 2004, the impugned dismissal order dated 19.9.2008 is liable to be set aside so also appellate

authority's order dated 25.5.2012.

Per contra, learned counsel for the respondents submitted that the petitioner was appointed on ad-hoc basis. He was not appointed on probation so as to apply Regulations 1994 and 2004. Therefore, question of issuance of charge-sheet on the basis of fake matric certificate at the time of appointment is not attracted. Regulations 1994 and 2004 are only applicable to the regular employees of the respondent-corporation. Therefore, the petitioner's contention that respondent-corporation have not resorted to apply Regulations 1994 and 2004 is liable to be rejected. It was further submitted that the petitioner had been given ample opportunity in the inquiry. He has failed to produce original matric certificate issued by the HSEB. Even to this day, the petitioner do not possess the original metric certificate issued by HSEB. Consequently, order of dismissal is in accordance with the inquiry held by the Inquiry Officer. Therefore, no interference is called for in respect of dismissal order and appellate authority's order.

Heard learned counsel for the parties.

It is undisputed that the petitioner was appointed on ad-hoc basis. Thus, regulations 1994 and 2004 are not applicable for the reasons that the petitioner never appointed on probation. Assuming that Annexure P-6 the petitioner was subjected to disciplinary proceedings by resorting to Regulations 1994 and 2004 in the year 2005 that also does not give any right to the petitioner to invoke Regulations 1994 and 2004 for the purpose of holding an inquiry in respect of consideration of fake matric certificate alleged to have been produced in order to obtain appointment order to the post of Godown Keeper. Therefore, petitioner's contention that respondent-

corporation should have resorted to Regulation 1994 and 2004 for the purpose of holding an inquiry on the allegations of producing fake certificate by him is hereby rejected. Perusal of inquiry officer's report, it is evident that the petitioner has been given ample opportunity to produce the original certificate issued by HSEB. The petitioner has not produced any document to show that before the inquiry officer his contention is that he had the certificate issued by the Delhi Board and not the HSEB. The petitioner has also not produced any document to show that he had filed a counter statement before the inquiry officer to counter that he is not required to produce certificate issued by the HSEB. Thus, the petitioner has not made out a case so as to interfere with the order dated 19.9.2008 (Annexure P-3) and order dated 25.5.2012 (Annexure P-7).

Accordingly, petition stands rejected.

01.05.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**