

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 18793 of 2014 (O/M)
Date of decision : 26.5.2017

Manohar Lal

..... Petitioner (s)

Versus

State of Haryana and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Anu Chatrath, Senior Advocate, with,
Ms. Harmanpreet Kaur, Advocate, for the petitioner.
Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.
None for respondent No. 3.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

-. -

-. -

KULDIP SINGH J. (ORAL)

The petitioner, who is a retired Science Master from the Education Department, State of Haryana, has impugned the order dated 9.5.2012 (Annexure-P-10), vide which he was compulsorily retired from service. He has also challenged the orders passed by the first and second appellate authority dated 23.8.2012 and 9.4.2013 (Annexures-P-11 and P-12 respectively), vide which his appeal and revision/second appeal were dismissed. The petitioner prays for mandamus directing respondents to reinstate him in service with consequential benefits.

The case of the petitioner is that he was appointed on 22.11.1983 on adhoc basis as a Science Master. His services were regularized with effect from 1.11.1986. It is stated that, while working as a Science Master, he sought permission from the Headmaster, Government High School, Bikaner (Rewari) in the year 1997, for appearing in MA

CWP No. 18793 of 2014 (O/M)

(Maths) from Bundail Khand University. The same was allowed, vide order dated 20.11.1996 (Annexure-P-1). The petitioner appeared in MA (Maths) (Previous) examination from Bundelkhand University, Jhansi, through Shri Raghubir Singh Rayaswal, Principal, Sachin Degree College, Gurgaon. He was duly issued admit card and after getting leave for the days of examination, he appeared in Guru Harkrishan Degree College, Jhansi Centre. He was supplied with detailed mark sheet by the Principal of Sachin Degree College, Gurgaon. Similarly, in the year 1998, the petitioner again appeared in MA (Maths) Final Exam under Roll No. 93597 after taking proper permission and leave from 15.4.1998 to 20.4.1998. The Principal of Sachin Degree College, Gurgaon, supplied him detailed mark certificate for M.A. (Maths) Final Examination. The petitioner took it to be genuine one, issued by the Bundelkhand University, Jhansi. Thereafter, the petitioner submitted his case to Headmistress, GHS, Bikaner, Rewari, for promotion to the post of Lecturer (Maths). The same was forwarded, vide letter dated 15.2.1999. Consequently, the petitioner was promoted by the competent authority to the post of Lecturer (Maths), vide order dated 11.11.1999 (Annexure-P-4). However, in the absence of MA (Maths) degree from the Bundelkhand University, the petitioner did not join the said promotional post. It is stated that later on, somebody filed a complaint, on the basis of which FIR No. 151 dated 14.6.2003, was registered at Police Station City Rewari, against the petitioner under Sections 420, 467, 468, 471 and 120-B IPC. The petitioner was arrested and consequently, he was suspended on 17.1.2004, but was later reinstated in service, vide order dated 5.7.2005 (Annexure-P-5). As a result of the trial of the criminal case, the learned Chief Judicial Magistrate, Rewari, vide judgment dated 24.10.2011

CWP No. 18793 of 2014 (O/M)

(Annexure-P-6), acquitted the petitioner of the charges framed against him. Later on, vide order dated 28.9.2004, the petitioner was served with a chargesheet under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, levelling following two charges :-

- “1. After investigation, Incharge Vigilance Crime Branch, Hisar, told that Sh. Manohar Lal, S.S. Master got fake certificate under Roll No. 93597 year 1998 of M.A. in Maths, with the help of Bundelkhand University, Jhansi.
2. He applied for promotion to the post of Lecturer Maths with the help of fake certificate through proper channel in 1999 and he got the benefit of promotion vide order No. 15/166-99-E-IV(1) dated 11.11.1999.”

Shri V.P. Batra, IAS (Retired) was appointed as an Inquiry Officer. Vide inquiry report dated 28.1.2011 (Annexure-P-7), he held that the charges against the petitioner are not proved. However, the case was remanded back by the competent authority. Thereafter, after further inquiry, the Inquiry Officer submitted the supplementary report dated 28.2.2012 (Annexure-P-8), wherein he held the petitioner guilty of both the charges. Thereafter, after issuing a show cause notice dated 9.4.2012 (Annexure-P-9), the impugned order of compulsory retirement dated 9.5.2012 (Annexure-P-10) was passed by the Additional Director Education, Panchkula, Haryana, vide which the petitioner was compulsorily retired from the service. His appeal was dismissed by the Director Elementary Education, Panchkula, Haryana, vide order dated 23.8.2012 (Annexure-P-11). His revision/second appeal was dismissed, vide order dated 9.4.2013 (Annexure-P-12), passed by the Principal Secretary, Government of Haryana, School Education Department, Chandigarh. The petitioner has stated that infact he was cheated by the Principal of Sachin

CWP No. 18793 of 2014 (O/M)

Degree College, Gurgaon, and that he had not cheated the department. He later on did not avail the benefit of promotion as he has become suspicious that the said detailed mark certificate of MA, Maths (Final) is false and fake. Since the petitioner was acquitted in the criminal case, therefore, the impugned order is liable to be set aside.

In the reply, respondents No. 1 and 2 have not disputed the facts. It was stated that the MA (Final) Maths Degree 1998 was got verified by the department and it was reported by the Bundel Khan University that the candidate had appeared in M.Sc. Final March 1998 Bundelkhan College Jhansi, but he failed in exam. The mark sheet No. 38758 was never issued by the University and the mark sheet sent by the department is fake/forged. It was on the basis of said report that the matter was remanded back to the Inquiry Officer, who submitted the inquiry report, holding the petitioner guilty of the charges framed against him. While referring to the case of Radhey Shayam, Ex. S.S. Master, who had obtained the benefit of promotion by producing a fake certificate of M.A. degree, it was stated that the said employee was dismissed from the service.

Since no relief is claimed against respondent No. 3, therefore, his presence is dispensed with.

I have heard the learned senior counsel for the petitioner, the learned State counsel and have also carefully gone through the file.

The facts of the case are not disputed. The dispute is only regarding detailed marks certificate of MA (Maths) Final Examination, which was found to be fake. The petitioner claims that he appeared for the said examination and the Principal of Sachin Degree College, Gurgaon, supplied him the detailed marks certificate, wherein he was shown to be

CWP No. 18793 of 2014 (O/M)

pass. He supplied the same to the department for claiming promotion and that his promotion as Lecturer (Maths) was ordered on 11.11.1999 (Annexure-P-4). As the said Sachin Degree College, Gurgaon, was closed, he became suspicious and, therefore, he did not join the said promotional post. In this way, he did not cheat the department and infact, it was the petitioner who was cheated by the Principal of Sachin Degree College, Gurgaon. It is further argued that in the first inquiry report, it was held by the Inquiry Officer that the charges are not proved. It is further argued that in the criminal trial, the petitioner was acquitted by the learned Chief Judicial Magistrate, Rewari, vide judgment dated 24.10.2011 (Annexure-P-6).

The perusal of the said judgment dated 24.10.2011 (Annexure-P-6), passed by the learned Chief Judicial Magistrate, Rewari, shows that FIR No. 151 dated 14.6.2003 under Sections 420, 467, 468, 471, 120-B IPC was registered on the basis of a secret information received by the police. The petitioner claims that he was issued a fake detailed mark certificate dated 9.11.1998 by the Principal of Sachin Degree College, Gurgaon, in the year 1998. On the basis of the said detailed marks certificate, he applied for promotion and was promoted to the post of Lecturer (Maths), vide order dated 11.11.1999 (Annexure-P-4). However, he claims that as he became suspicious about the said degree, he did not join the said promotional post. However, there is nothing on file to show that from 11.11.1999 to 14.6.2003 when a criminal case was registered against the petitioner, the petitioner made any complaint to any of the administrative or police authority that he has been supplied with a fake detailed marks certificate by the Principal of Sachin Degree College, Gurgaon. There is also nothing on file to show that the petitioner ever

CWP No. 18793 of 2014 (O/M)

addressed any communication to his promotional authority i.e. Deputy Director that he is not joining the promotional post as he has suspicion about the genuineness of the detailed marks certificate, supplied to him by the Principal of Sachin Degree College, Gurgaon. Infact, the petitioner remained mum for all these years. It was only after the criminal case was registered against the petitioner as well as the Principal of the said Sachin Degree College, Gurgaon, that he raised the plea of being cheated. He raised the plea only after the completion of the inquiry when he was issued a show cause notice for dismissal from service. It goes to show that the petitioner remained mum for nearly 3 ½ years. If the petitioner was cheated, he should have moved a criminal complaint before the police or administrative authority. The petitioner was working as a Science Master and is quite educated and aware about his rights. The petitioner had also means to verify from the University that the detailed marks certificate supplied to him is fake or genuine. It also comes out that during the inquiry, he did not supply the original detailed marks certificate saying that the same has been taken away by the Principal of Sachin Degree College, Gurgaon, for issuing degree. He never gave in writing that he withdraws his application for promotion on the basis of said forged detailed marks certificate or he surrenders his promotional post. It shows the involvement of the petitioner in the detailed fake marks certificate to get the benefit of promotion. Though at the later stage when he was actually promoted, he might have become guilty conscious or fearful and did not join the promotional post. The conduct of the petitioner of not joining the promotional post was taken into consideration to award lesser punishment of compulsory retirement from service. However, other similarly situated employees, who had joined the

CWP No. 18793 of 2014 (O/M)

promotional post by submitting fake detailed marks certificate, were dismissed from the service. In the first inquiry, the report was made that the charges are not proved after observing that the department has not got verified from the University. However, the department later on got it verified from University and remanded the enquiry back to the Inquiry Officer for fresh decision and it was on the basis of fresh supplementary inquiry that the supplementary report was submitted. Before the Inquiry Officer, the plea was taken that the original detailed marks certificate was taken away by Shri Raghubir Singh Rayaswal, Principal of Sachin Degree College, Gurgaon, to obtain degree. However, for obtaining the degree, the original detailed marks certificate is not required to be returned. Therefore, it is apparent that the conclusion of the Inquiry Officer is correct that the petitioner secured a bogus certificate of having passed MA (Maths) and he got the promotion to the post of Lecturer (Maths). Though, the petitioner did not join the post of Lecturer (Maths), but neither he surrendered the said promotion, nor he intimated the department that he is not joining the promotional post or surrendering the same on account of his detailed marks certificate being found bogus. There is no illegality or infirmity in the impugned order. The punishing authority observed that the petitioner being a teacher in the education department is required to teach lesson of honesty and hard work to the children. However, keeping in view the fact that the petitioner has not availed the benefit of promotional post, a lenient view was taken. There is no illegality or infirmity in the same and accordingly, no illegality or infirmity is found in the order of the appellate authority and the order of the second appellate authority dated 23.8.2012 and 9.4.2013 (Annexures-P-11 and P-12 respectively) in dismissing the appeal and

CWP No. 18793 of 2014 (O/M)

revision/second appeal.

As a result of the foregoing discussion, I do not find any merit
in the present writ petition. The same is accordingly dismissed.

(KULDIP SINGH)
JUDGE

26.5.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes