

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11698-2010 (O&M)

Date of Decision:-23.03.2018.

Rakesh

.....Petitioner

Versus

Union of India and others

.....Respondents

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

Present: Mr. B.S. Rathee, Advocate for the petitioner.

Mr. Anand Chhibber, Senior Advocate with
Mr. Gaurav Mankotia, Advocate and
Mr. Vaibhav Sahni, Advocate for respondent Nos.2 and 3.

Mr. Tarurag Gaur, Advocate for respondent Nos.4 and 5.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the punishment order dated 24.10.2009 (Annexure P-23) by which petitioner is stated to have been dismissed from service on the allegations that for the purpose of appointing him to the post of Operator-D (Production) pursuant to the advertisement vide Annexure P-1 that he had produced fake experience certificate and order dated 02.12.2009 (Annexure P-25) vide which his appeal against the punishment order dated 24.10.2009 (Annexure P-23), was rejected.

2.) Petitioner is one of the candidate for recruitment to the post of Operator-D GR-IV (Production). One of the requisite qualification is that candidate must have 3 years work experience. In this regard, petitioner is

stated to have submitted fake experience certificate even though he has not completed 3 years of experience. In this regard, competent authority of the respondents proceeded to verify the authenticity of work experience certificate from the previous employer of the petitioner. Later on they came to the conclusion that experience certificate dated 11.08.2005 (Annexure P-6) issued by one Sh. Abdul Aziz, Site-in-Charge, SS Construction was a fake one. In view of these factual aspects, a communication was made by respondents to Abdul Aziz on 01.06.2007. Based on the reply of Mr. Abdul Aziz Annexure P-15 dated 6.06.2007, the Inquiry Officer and disciplinary authority have held that petitioner had produced fake certificate and passed order of dismissal dated 24.10.1999 and rejection of appeal dated 02.12.2009. Thus, petitioner is aggrieved by the order of disciplinary and appellate authority. 3.) Learned counsel for the petitioner submitted that there is no examination of author of Annexure P-15 so as to authenticate the same in a disciplinary proceedings. In other words, petitioner has not been given opportunity to examine author of experience certificate vide Annexure P-6 read with Annexure P-15. Therefore, inquiry proceedings and consequential orders are liable to be set aside.

4.) *Per contra*, learned counsel for the respondents submitted that on the face of Annexure P-6 read with Annexure P-15, it is evident that petitioner do not have the requisite experience and he do not fulfill the criteria for the post of Operator-D GR-IV (Production). That apart, he has produced a fake certificate vide Annexure P-6 while contending that he had requisite experience. Therefore, no interference is called for in respect of disciplinary authority as well as appellate authority's orders.

6.) Crux of the matter in the present petition is whether Annexure P-6 and P-15 have been taken into consideration by the Inquiry Officer/disciplinary and appellate authority without examining the author of the documents like Annexure P-6 and P-15. On that score itself impugned order of disciplinary as well as appellate authority orders are liable to be set aside. Supreme Court in the case of **S.C. Girotra Vs. United Commercial (UCO Bank) 1995 Supp (3) 212** held that if the disciplinary authority or Inquiry Officer's report is taken note of any relevant document against an employee, in that event author of the document is required to be examined. In other words, behind the back of the author of the document, document cannot be accepted and admitted as proved which is contrary to the law of evidence. In view of the principle laid down by the Supreme Court in the aforesaid decision, disciplinary as well as appellate authority's orders dated 24.10.2009 and 02.12.2009 (Annexures P-23 and P-25, respectively) are set aside.

7.) Petition stands allowed. Reserving liberty to the respondents to proceed from the defective stage and complete the inquiry proceedings at the earliest.

(P.B. BAJANTHRI)
JUDGE

March 23, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.