

\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1385/2017

SUNIL KUMAR

..... Petitioner

Represented by: Mr. Yogesh Swroop, Mr. Alok
Kumar Palai and Mr. Kapil
Kaushik, Advocates.

versus

STATE NCT OF DELHI & ANR

..... Respondent

Represented by: Mr. Sanjay Lao, ASC with SI
Ramakant, PS Sarai Rohilla.
Mr. Rajan Sabharwal,
Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

14.09.2018

%

1. By this petition, the petitioner seeks quashing of FIR No. 566/2014 under Sections 419/420/468/471 IPC registered at PS Sarai Rohilla and the proceedings pursuant thereto.

2. The above noted FIR was registered on the complaint of Samdeshak, an official of the Railway Protection Force alleging that during the interview session for the post of constable in RPF line, Daya Basti, the thumb impression of the present petitioner who appeared as candidate Sunil Kumar son of Harphool Singh did not match with the one given in the application form. It is alleged that the petitioner did not fill his form himself when he applied for the post of constable in RPF.

W.P.(CRL) 1385/2017

page 1 of 5

3. During the course of investigation specimen thumb impression of the petitioner was taken and it was compared with questioned documents, namely, application, OMR answer sheet, PET performa and viva voice.
4. As per the result received from the FSL the questioned thumb impression recorded on the OMR answer sheet, PET performa & viva voice verification sheet were identical to the specimen thumb impression of the petitioner, however, the questioned thumb impression on the application form No. 54180638 was not identical to the petitioner's thumb impression.
5. It is thus apparent that the exams were given by the applicant himself though in the application somebody else affixed the thumb impression.
6. This Court in a similar petition titled as Kanwar Singh Gurjar Vs. Commissioner of Police 2017 LawSuit (Del) 854 held:

10. At the time of document verification, the thumb impression and signatures of all the candidates were verified by the finger print experts of Railways. During the said process when the thumb impression of the petitioner was being verified, it was noticed that the thumb impression on the OMR answer sheet and PET are of the same person but on the application form, the thumb impression is of a different person.

11. The whole question hinges around whether the thumb impression on the OMR answer sheet and physical efficiency test is that of the petitioner conducted by the Department? The answer is Yes.

12. As per the Status Report, during investigation carried out by Insp. Satya Prakash, SHO, Sarai Rohilla, Delhi, the petitioner was the person who remained present during his written test, physical efficiency test and also visited the RPF Line, Daya basti, Sarai Rohilla, Delhi for interview on

04.06.2014. The said investigation of the Investigation Officer is also supported with the original Application Form on which the petitioner's photograph and signature of Kanwar Singh Gurjar is present.

13. Further, similar photographs and signatures were part of written test, PET, and interview and none of those documents are bringing any complaint against the petitioner. It is not the case of the respondent that the petitioner did not appear himself for the written examination, PET and interview.

14. The dispute is at the initial stage of filling up of the application form, in which the petitioner's photograph and his original signature does exist. However, the thumb impression of the present petitioner on the said form is not tallying with that of the petitioner.

15. In the instant petition, there were four stages i.e.
i. At the time of filling up of the Application Form.
ii. At the time of written examination.
iii. At the time of physical efficiency test.
iv. At the time of interview.

It is pertinent to note that, whenever the petitioner was required to be physically present for the written test, physical efficiency test and interview, he was stated to be present and the documents and Application Form were found to be genuine. What is not to be found genuine is the thumb impression on the Application Form at the initial stage, which is alleged to be belonging to the petitioner as per the information given in the Application. The said Application Form filled up by the petitioner is pasted with photograph of the petitioner and is duly signed by him and it is an admitted fact that he appeared in the written test, physical test, interview and all documents were stated to be

matched except the thumb impression on the original Application Form.

16. In *Gian Singh Vs. State of Punjab* MANU/SC/0781/2012 : 2012 X AD (S.C.) 37 : [(2012) 10 SCC 303], the Apex Court has observed as under:-

"61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings."

7. From the findings of this Court in Kanwar Singh Gurjar (Supra) and the facts noted above it is evident that the petitioner committed no impersonation while giving his examination and he himself appeared as a candidate and even if for some reason the thumb impression of the petitioner did not tally with the application form, the said fact would be a mere irregularity not constituting any offence of cheating or forgery as at all relevant times, that is, when the petitioner appeared before the examination or at the time of interview no impersonation, cheating or forgery was done by the petitioner.

8. Consequently, the petition is disposed of quashing the FIR No. 566/2014 under Sections 419/420/468/471 IPC registered at PS Sarai Rohilla and the proceedings pursuant thereto.

MUKTA GUPTA, J.

SEPTEMBER 14, 2018
'yo'