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IN THE HIGH COURT OF JUDICATURE OF MADRAS

ORDERS RESERVED ON : 02.12.2021

ORDERS PRONOUNCED ON : 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.2478 OF 2021

AND

W.M.P.NOS.2795 & 2796 OF 2021

A.Sivakumar

... Petitioner

.Vs.

1. The Chairman-cum-Managing Director,
Corporate Office,
Bharat Sanchar Nigam Ltd.,
Harish Chandra Mathur Lane,
Janpath, New Delhi - 110 001.
2. The Chief General Manager,
Bharat Sanchar Nigam Ltd.,
Chennai-Telephones,
No.78, Purawalkam High Road,
Chennai - 600 020.
3. The Deputy General Manager (HR &A),
Chennai-Telephones,
No.10, Millars Road,
Chennai - 600 010.
4. The General Manager (Finance),
Bharat Sanchar Nigam Ltd.,
Chennai-Telephones,
No.78 Purasawalkam High road,
Chennai - 600 010.
5. The Assistant General Manager (Admin & Legal),
Bharat Sanchar Nigam Ltd.,
Chennai-Telephones,
No.78, Purasawalkam High Road,
Chennai - 600 010.

... Respondents



PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the concerned records relating to the order dated 28.01.2021 in O.A.No.51 of 2021 passed by the learned Central Administrative Tribunal, Chennai Bench and quash the same and allow the said O.A.No.51 of 2021.

For Petitioner : Mr.M.Gnanasekar

For R1 to R5 : Mr.Kishore Kumar

O R D E R

V.SIVAGNANAM, J.

This Writ Petition has been filed seeking issuance of Writ of Certiorari calling for the concerned records relating to the order dated 28.01.2021 in O.A.No.51 of 2021 passed by the Central Administrative Tribunal, Chennai Bench and quash the same and allow the said O.A.No.51 of 2021.

2. The learned counsel for the petitioner contended that the petitioner was appointed as temporary casual labourer with respondents BSNL office from 01.11.1993. He worked under the control of the officer of the 5th respondent. He was given temporary status of Mazdoor with effect on 12.02.1999. On 27.02.2007, a show cause notice was issued to him and he was directed to appear before the Certification Verification Committee which was formed for the purpose of regularization. He appeared before the Committee on 21.01.2008 and submitted his representation/records for verification. He was issued with the said show cause notice on 27.02.2007 on the ground that he submitted false records with regard to his Date of Birth. Thereafter, he was terminated from service. Hence, he filed O.A.Nos.156 & 159 of 2012, before the Tribunal. Challenging the order of termination dated 07.02.2012. The Tribunal granted an interim order of status quo, against which the respondents filed W.P.No.3644 of 2012 before this Court on 15.03.2012, which was disposed of directing the Tribunal to dispose of the O.A.Nos.156 & 159 of 2012; which was disposed of by common order dated 22.06.2012. Again, the petitioner was called upon to submit original Certificate on or before 08.04.2008 showing the age proof and the certificate was accepted and his name was considered for regularization, by communication dated 30.03.2009. In such circumstances, the 5th respondent had issued



show cause notice dated 05.01.2021 to show cause as to why he should not to be terminated from service on the basis of the findings of the enquiry dated 08.01.2013, he made a representation but, the 5th respondent, without considering his representation, issued a termination order dated 16.01.2021. The 5th respondent passed stereotyped orders terminating the petitioner and others. The respondents adopted different yardstick between the persons similarly placed. Against the termination order, he filed O.A.No.51 of 2021 before the Central Administration Tribunal. The Tribunal had dismissed O.A.No.51 of 2021 with costs. Assailing the order. The petitioner has filed this petition.

3. The learned counsel for the petitioner reiterated other grounds raised in the writ petition and thus pleaded to set aside the order passed in O.A.No.51 of 2021 and to allow the appeal.

4. The learned counsel for the respondents supported the order of the Tribunal and further contended that the petitioner was granted Temporary Status of Mazdoor (TSM) with effect from 12.02.1999 and by letter dated 25.01.2002, he was asked to appear before the Certificate Verification Committee and on 08.02.2002, he had submitted applications and Certificates and in the form, he mentioned his Date of Birth as 30.11.1996 and Educational qualification as 8th passed. In support of his date of birth and Educational qualifications, he had enclosed a copy of Record Sheet from P.U.Middle School, Melkalathure, Anavarthiganpet P.O, (via) Arakonam TK. N.A.Dt., and also enclosed a copy of the Employment Registration Card with SI.No.4231/84 dated 30.08.1984, in which the Date of Birth is mentioned as 30.11.1996. On verification, it was found that he furnished false information and Certificates. As the Certificate produced by the petitioner was found to be not genuine, another opportunity was given to submit the original certificates. The petitioner had submitted a copy of transfer certificate from Govt.ADW Boys Hr. Sec. School, Arakkonam-631002, Vellore District, showing the Date of Birth as 02.01.1971 and Educational Qualification as 9th discontinued. On verification, it was found as genuine. The petitioner knowing the seriousness consequences, submitted fraudulent certificate at the time of enquiry before the Department for furnishing false information and suppression of the fact, he was terminated from service with effect from 18.01.2021. Therefore, the Tribunal rightly dismissed O.A.No.51 of 2021 and thus, the learned counsel for the respondents pleaded to dismiss the writ petition.

5. Heard, the learned counsel for the parties and perused the materials available on record.



6. We have considered the matter in the light of the submissions made by the learned counsel for the parties and grounds made in the writ petition.

7. On a perusal of the materials available on record, the undisputed facts are as follows:

(i) The petitioner was granted Temporary Status Mazdoor with effect from 12.02.1999 in the respondent /BSNL Office.

(ii) By letter dated 25.01.2002 the petitioner was asked to appear before the Service Verification Committee and he also submitted his applications for verification of regularization and given declaration with regard to date of Birth and he mentioned his date of birth as 30.11.1966 and his declaration of qualification as 8th pass. In support of his date of birth and declaration qualification, he has enclosed copy of the Record Sheet from P.U.Middle School, Melkalathure, Anavarthiganpet P.O, (via) Arakonam TK.N.A.Dt. He also enclosed a copy of employment Registration card with SL.No.4231/84 dated 30.08.1984, in which the Date of Birth is mentioned as 30.11.1966.

(iii) The Department verified certificates produced by the petitioner with the School authorities for its genuineness. The School Authorities replied there was no such records, and they have not issued such certificates. Therefore, they found that the petitioner submitted fraudulent certificates. Thereafter, another opportunity was given to the petitioner to produce the certificate and he again produced a copy of the Transfer Certificate from Govt. ADW Boys Hr. Sec. School, Arakkonam-631002, Vellore District, showing the Date of Birth as 02.01.1971 and educational qualifications as 9th discontinued. It was verified to be genuine during verification.

8. From the above particulars, it is evidenced that initially, the petitioner furnished false Date of Birth and Educational qualification with fake certificates and joined in service. Subsequently, he furnished genuine certificate in which his Date of Birth was mentioned on 02.01.1979. In the earlier false certificate his date of birth was mentioned as 30.11.1996 According to the respondents' counsel, on the date he was not eligible for appointment as he was a minor. Apart from this, knowing the serious consequences the petitioner had furnished false declaration of his Date of Birth with fake certificate.

9. There is no doubt about it, that once verification form requires certain information to be furnished, the declarant is duty bound to furnish it correctly and suppression of material facts of submitting false information may by itself lead to termination of his service. The fraud and mis-representation



vitiates a transaction and in case employment has been obtained on the basis of forged documents, as observed in 'M.Baskaran case' [Union of India Vs. M.Baskaran (1995 SUPP 4 SCC 100)]. Therefore, if an appointment was procured fraudulently, the incumbent may be terminated from service. Therefore, the person who has suppressed the material information, cannot claim unfettered right for appointment or continuity in service. Hence, the Tribunal rightly upheld the termination. We find no reason to interfere with the order of the Tribunal as there is no merit in the Writ Petition. Hence, the Writ Petition liable to be dismissed.

10. In the result, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

vsn

To

1. The Chairman-cum-Managing Director,
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5. The Assistant General Manager (Admin & Legal),
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No.78, Purasawalkam High Road,
Chennai - 600 010.

+2ccs to Mr.Kishore Kumar, Advocate, S.R.No.67690
+1cc to Mr.M.Gnanasekar, Advocate, S.R.No.68069

W.P.NO.2478 OF 2021 AND
W.M.P.NOS.2795 & 2796 OF 2021

SSI (CO)
PBS/11/01/2022