

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

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**CWP-2479-2019
Date of decision: 19.01.2023**

ISHWAR SINGH BOORA

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Sunil Kumar Nehra, Advocate for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present petition raises a challenge to the order dated 17.01.2019 (Annexure P-12) vide which the representation of the petitioner has been rejected. It has further been prayed by the petitioner that services of respondent No.5 be dispensed with immediate effect since the above respondent had secured employment as Driver with the Haryana Roadways, Sub Depot, Tohana in District Fatehabad on the basis of fake, forged and fabricated Heavy Transport Vehicle Driving License.

2. Briefly summarized the facts of the case as advanced by the petitioner who was working as a Sub Inspector at Sub Depot Tohana under the General Manager, Haryana Roadways, Fatehabad is that an advertisement had been issued by the Director General, State Transport Department, Haryana for recruitment to the post of Driver in the year 2007. Last date for submission of the application form was 10.08.2007. Pursuant to the above advertisement, respondent No.5 applied for the post of Driver to

the General Manager, Haryana Roadways, Fatehabad. It had been stated by the said respondent that he possessed a valid driving license bearing No.17324 issued on 04.08.2004 and valid upto 10.10.2007 by the Licensing Authority i.e. District Transport Authority, Mansa. An affidavit in support of the aforesaid particulars was also submitted by respondent No.5 claiming the genuineness of the said driving license issued in the name of respondent No.5-Kuldeep Singh son of Ratna Ram resident of village Kanheri, Tehsil and District Fatehabad. It is argued that originally that driving license had been issued in favour of respondent No.4 by the Licensing Authority, Tohana, District Fatehabad valid from 11.10.2002 to 10.10.2007 for motorcycle, scooter, car and jeep only. He was permitted to drive LTV by the Licensing Authority, Fatehabad on 30.01.2004. Thereafter, an endorsement on the aforesaid license to driver heavy transport vehicle was also obtained as per entry No. 7324 dated 04.08.2004. It is vehemently argued by the counsel for the petitioner that the said endorsement is forged and that upon come to know of the same, he had applied to the office of District Transport Officer, Mansa-respondent No.4 to supply information regarding issuance of the said driving license and it was informed that driving license No. 17324 instead of No.7324 was endorsed for HTV w.e.f. 04.08.2004 to 10.10.2007 in favour of Kuldeep Singh son of Ratna Ram, resident of Village Budhlada, District Mansa. It was alleged that respondent No.4 had thus issued a false verification earlier in favour of respondent No.5 regarding the heavy driving license. A legal notice was thereafter given by him but as no decision was taken, he filed a Civil Suit for declaration at Civil Courts Tohana. The said Civil Suit was withdrawn on 03.11.2017 with liberty to file a fresh petition. He, however, preferred CWP No.6634 of

2018 seeking issuance of writ in the nature of quo warranto. The aforesaid writ petition was dismissed as withdrawn with liberty to approach the authorities vide order dated 29.05.2018. A fresh representation was thereafter submitted by the petitioner to the respondents whereupon the impugned order was passed rejecting the prayer.

3. I have heard learned counsel appearing on behalf of the petitioner and have gone through the documents appended alongwith the present petition with his assistance.

4. A perusal of the order shows that the General Manager, Haryana Roadways, Fatehabad had duly taken into consideration the information received from the District Transport Officer, Mansa as per which the driving license No. 17324 had been issued in favour of Kuldeep Singh son of Ratna Ram. Verification regarding the above said Driving License No. 17324 was sent vide memo No. 1614/ECD dated 24.03.2015 from the office of District Transport Officer, Mansa.

5. Much reliance has been placed by the counsel for the petitioner on the information received by him under the Right to information Act, 2005. A perusal of the aforesaid information received under the Right to Information Act and relied upon by the counsel for the petitioner shows that the said information was sought in relation to endorsement No.7324 whereas the endorsement in favour of respondent No.5-Kuldeep Singh son of Ratna Ram resident of village Kanheri, Tehsil Tohana is diary No. 17324. The counsel for the petitioner has alleged that the information in question mentions that Kuldeep Singh son of Ratna Ram is resident of Budladha in District Mansa whereas the respondent No.5-Kuldeep Singh son of Ratna Ram was resident of village Kanheri in District Fatehabad of Haryana.

6. The information received by the petitioner cannot be a sufficient ground to discredit the verification. It is undisputed that the Driving License was not a new driving license showing a different residence rather, it was a case of endorsement on a Licence No. 79182 issued on 11.10.2002 by the Licensing Authority, Fatehabad. Name of respondent No.5 and his father's name are same and relate with the description of the person whose's information was sought under the RTI Act. The information only states the residence of village Budhlada whereas the original license shows permanent address of village Kanheri, Teshil Tohana. Thus, merely because a Permanent Resident of village Kanheri has obtained endorsement of heavy Driving License from the District Transport Office, Mansa where he might be residing or carrying on his work cannot ipso facto be support to hold that the driving license is forged or fabricated. The same cannot be said to be a false or fabricated record. A person being a resident of one place does not mean he can not be a permanent resident of any other place. Any person may be residing at any place on account of exigencies of work and occupation without being a permanent resident of that place. Hence, merely because respondent No.5 was resident of Budhlada at the time of endoresement can not mean that he could not be a permanent resident of village Kanheri, Tehsil Tohana. The information is thus neither false on the said score alone nor it can be said to be forged on the strength of the reply received under the Right to Information Act, 2016. The validity of the endorsement is not being disputed and what is being cited as suspicious circumstances is merely the difference of the address given. A person is even otherwise not required under the Motor Vehicles Act, 1988 to be a Permanent Resident of a place where he seeks issuance of a license and/or

renewal thereof. Hence it cannot be presumed that respondent No.5 was not holding a valid driving license in the year 2008 when he applied with the respondent-authorities. Moreover, the endorsement to drive heavy license was more than 03 years prior to the issuance of the advertisement by the respondent-department and it is not in quick precedence to the issuance of advertisement.

7. Furthermore, the said respondent has been working with the respondent-department for more than last 15 years and even though the petitioner himself was working as Sub Inspector with the respondent-department, there is no averment that the respondent No.5 had caused any accident or has ever been issued any charge-Sheet for any dereliction of duty or for careless, rash and negligent driving. It must thus be presumed that the said respondent has been satisfactorily discharging his duties and that there is no complaint in relation to his work and conduct or his driving skills. Institution of the present petition is an outcome of suspicion based solely on the RTI information despite the authorities having verified the validity and genuineness of the endorsement on the license of the respondent No.5-Kuldeep Singh. Institution of the proceedings is with an intent to conduct a fishing enquiry without any cogent and convincing evidence *prima facie* to establish the allegations leveled by the petitioner.

The present petition is accordingly dismissed in *limine* as being devoid of any merits.

(VINOD S. BHARDWAJ)

JUDGE

JANUARY 19, 2023

Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No