

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6406-2022 (O&M)
DECIDED ON: 13th JULY, 2023

SANDEEP KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

COARM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Anshul Sharma, Advocate
for the Petitioner.

Mr. Jagbir Malik, Advocate
for the Respondents.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Articles 226/227 of the Constitution of India, has been invoked for issuance of a writ in the nature of *Certiorari* for quashing the impugned order dated 11.03.2022 (Annexure P-9) passed by respondent no. 2 whereby the services of the petitioner have been dispensed with.

2. Brief facts emanating for the disposal of the present petition are that the petitioner was having 115 Kanal 11 Marla of land in revenue estate of the village Dusani. In the Year, 2014, for setting up of Deen Bandhu Chotu Ram Thermal Power Plant, Yamuna Nagar, Government of Haryana has acquired land of village Dusani. As per the Rehabilitation and Resettlement Policy dated 09.11.2010 (Annexure P-10) one member of

family of above 18 years, whose land is acquired for the project, is entitled

for Job based on his educational qualification. The petitioner had submitted his application form dated 23.06.2014 (Annexure P-1) for job under oustee quota, along-with the form, he had submitted Revenue Record of his Land and his Certificate of Matriculation, 10+2, Computer Course and B.Com. On the basis of his education qualification, the petitioner was offered an appointment on the post of LDC. Pursuant to the said offer letter, the petitioner has joined on the post of Lower Division Clerk on 03.06.2015. The petitioner has completed his two years' probation period and served the department with full sincerity and dedication. On 20.01.2022 the petitioner has submitted an application with a request to assign him the job as per his qualifications. On 25.01.2022, respondent No. 2 served a show cause notice (Annexure P-6) upon the petitioner, as the Mark Sheets/Degree submitted by him at the time of joining post of LDC (HO) was not found to be genuine. A reply dated 01.02.2022 (Annexure P-7) to the show cause notice was submitted wherein, it has been clearly mentioned that he had appeared before the Ld. Committee on 25.01.2022 and explained each fact and requested for change of his post as per his qualification of 10+2 but without taking into consideration his genuine request, the services of the petitioner have been dispensed with vide order dated 11.03.2022 (Annexure P-9).

3. It is asserted by learned counsel for the petitioner that the impugned order dated 11.03.2022 (Annexure P-9) is liable to be set aside because while passing the impugned order dated 11.03.2022, no proper procedure for imposing major penalty under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 has been followed. It is further asserted that the petitioner was appointed in the Year 2015 in return of acquisition of his land by the Government and has already completed his

after six years of his appointment, passing of impugned order dated 11.03.2022 by which his services have been dispensed with, is impermissible in the eyes of law. The assertion is that Respondent No.2 has neither taken into consideration the reply to show cause notice nor considered his request for change of his post as per his qualification, while passing the impugned order.

4. Learned counsel for the respondents has submitted that the impugned order has been passed by the competent authority, when the B. Com. Degree, on the strength of which, the petitioner was appointed on the post of Lower Division Clerk, was found fake and the appointment of the petitioner was subject to verification of his Character and Antecedents. It is further submitted that the land was acquired for setting up Deen Bandhu Chottu Ram Thermal Power, Yamunanagar for which notification under Section 4 of the Land Acquisition Act, 1894 was issued on 09.06.1982. There were total 135 land oustees, including the petitioner, whose land more than 2 acres, was acquired for the project. Initially, there was no policy for providing employment in lieu of the acquired land. The oustees of the project had represented for giving employment as was given to the land oustees of Rajiv Gandhi Thermal Power Project at Khedar (Hisar) and Indira Gandhi Super Thermal Power Project at Jharli (Jhajjar). The matter was considered by the Council of Ministers, Government of Haryana, and on 17.08.2014, the proposal for providing employment to the land oustees of Deen Bandhu Chottu Ram Thermal Power Plant, Yamunanagar was approved by them (Annexure R-2/1).

5. Learned counsel for the respondents has placed reliance upon the Judgment dated 22.09.2022 passed by this Court in CWP No. 23717 of

and others'. On the strength of the said judgment, he argues that the case of the petitioner is squarely covered by this Judgment as the petitioner therein had secured job on the basis of Degree of EIILM University, Sikkim too and when, on verification, it was found that her degree was fake, she was terminated and the same was upheld by this Court.

6. He further relied upon a Judgment passed by the Hon'ble Sikkim High Court in WP (C) No. 51 of 2018 titled as **'Jyoti Aggarwal Vs. State of Sikkim & Others'** filed by petitioner to declare her Degree of Master of Arts in Mathematics obtained by her from EIILM University Sikkim as legal, genuine and valid and also to quash written communication dated 08.08.2018 issued by Human Resources Development Department, Sikkim to C.M.P. College, Allahabad University, where she was employed. The Court had declared her degree as invalid as it was granted for a non-existent subject by EIILM University.

7. The counsel further relied upon the Judgment in case titled as **'Karan Singh Maharana Vs Assistant General Manager (HRD), OBC, New Delhi'** reported as 2007 (5) SLR 823, wherein the Court had upheld the termination of an employee who had produced Fake Certificate from a Fake University. Drawing attention to above cited Judgments and the *dictum* laid down therein squarely covering the case of the present petitioner. Accordingly, he prays for dismissal of the present petition.

8. The counsel for the respondents has also relied upon the Judgment passed by the Apex Court rendered in the case of **'Bank of India and another Versus Avinash D. Mandivikar and others'** reported as (2005) **7 S.C.C. 690**, wherein it has been held that a person who seeks equity must come with clean hands. Equity jurisdiction cannot be exercised in the case of

playing fraud. No sympathy or equitable consideration can come to rescue of such a person. It was further held that compassion cannot be allowed to bend the arms of law where an individual acquired a status by practicing fraud. Fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence.

9. Heard learned counsel for the parties, at length.

10. The petitioner was offered the post of Lower Division Clerk vide offer of appointment dated 28.05.2015 (Annexure P-4) on the strength of B.Com. Degree awarded by EIILM University, Sikkim. The relevant condition of the offer of appointment, reads as under:

“Para-2, It should be carefully noted by you that the terms and conditions for appointment will be as under:

a) It should be clearly understood that this appointment is temporary in nature and your service will be terminable by one month’s notice by the HPGCL on the one side and you on the other side or payment of one month’s pay plus allowances by either side in lieu thereof, except in case of misconduct of any description or unsatisfactory work when your services will be terminated without notice and without assigning any reason.

Para-6, this offer is being issued without verifying the character & antecedents in view of Haryana Govt. Letter No. 52/9/94-S (I) dated 07.06.1994 adopted by erstwhile Board Memo No. ch-266/NGE/G-420 dated 19.06.1995 and subsequently adopted by corporation after bifurcation of erstwhile HSEB into four different companies in view of Haryana Reforms Act, 1997. In case, subsequently, any

adverse facts come to the notice of Corporation/Nigam regarding your character and antecedents, your services are liable to be terminated without any notice.”

11. After carefully reading these conditions, the Petitioner had accepted the same vide his acceptance letter dated 03.06.2015 and submitted the educational certificates along with acceptance letter. On the basis of these Certificates/Degree, the petitioner was given appointment on the post of Lower Division Clerk. Out of these Educational Qualification Certificates, the Degree of B. Com. was shown to be obtained by the petitioner from Eastern Institute of Integrated Learning in Management, University Sikkim (EIILM). On verification from EIIM University, Sikkim, the Dy. Director/Registrar (IC), EIILMU, Higher Education, Gangtok vide reference No. 238/HE/HRDD dated 09.10.2020 has informed that EIILM University, Sikkim do not have any B. Com. Graduate and B. Com Course was first time started in the Year 2014-15 only and the University got closed down by the Year 2015. It is undisputed fact that the Petitioner's Degree of B. Com. has been shown to be passed in the Session 2011-12 when no such Course of B. Com. was existing in EIILM University, Sikkim which clearly shows that the petitioner has produced a Fake Degree of B. Com. for getting service on the post of Lower Division Clerk under oustees quota which is a clear fraud with the respondent and violation of conditions as mentioned in his offer of appointment.

12. It is crystal clear that the petitioner had secured appointment on the post of Lower Division Clerk based on a degree which was found to be fake and therefore, as per well settled preposition of law, the action of the respondents of dispensing with his services cannot be faulted. In view of

petitioner is not entitled for any equitable relief of appointment on a lower post as per his qualification because no sympathy or equitable consideration can come to rescue of such a person, who had secured service by playing fraud.

13. In view of the discussions made hereinabove, this Court does not find any merit in the present petition, as such the same stands dismissed, with no orders as to costs.

July 13, 2023
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(SANDEEP MOUDGIL)
JUDGE

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