

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

RSA-3706-1998 (O&M)
Date of Decision: 08.12.2023.

STATE OF PUNJAB

...APPELLANT

VS

ASHOK KUMAR

...RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Arora, AAG, Punjab.

Mr. S. S. Thakur, Advocate and
Mr. Anshul Sharma, Advocate
for respondent.

ANIL KSHETARPAL, J. (ORAL)

1. In this regular second appeal State of Punjab and its officials (defendants in the trial Court) assail the correctness of judgment and decree passed by the First Appellate Court on 16.04.1998. The judgment and decree passed by the trial Court while dismissing the plaintiff's suit has been reversed by the First Appellate Court.

2. In order to comprehend the issue involved in the present case, the relevant facts in brief are required to be noticed.

3. The plaintiff-Ashok Kumar was appointed as Constable on 31.08.1989 before his appointment as Constable he was working as Special Police Officer on temporary basis. However, subsequently it came to notice of the competent authority that the plaintiff has fabricated his matriculation certificate in order to get an appointment, hence his services were terminated on 08.12.1992. He filed the suit on 01.10.1993, for grant of decree of

declaration to the effect that he is a permanent employee and confirmed by the department in the service and termination of his service is illegal null and void.

4. The defendants contested the suit claiming that the plaintiff in order to get the employment forged his matriculation certificate. His actual date of birth in the matriculation certificate was 10.03.1966, however, by interpolation he changed it to 10.03.1968 for reducing his age. It was also asserted that the departmental inquiry was held and the plaintiff (respondent) admitted his fault. The Senior Superintendent of Police (SSP), the appointing authority on the basis of inquiry report passed the order of terminating the plaintiff from service.

5. It also came to notice that an FIR was also registered against the plaintiff as well as certain other employees who had obtained the employment by forging their testimonials.

6. The trial Court came to a conclusion that the plaintiff is not entitled to be reinstated in service as he has fabricated his matriculation certificate in order to get the employment.

7. However, the First Appellate Court reversed the judgment and decree and held that Punjab School Education Board (PSEB) itself is not clear regarding the date of birth of the plaintiff because in figure the date of birth has been mentioned as 10.03.1966 whereas in words it has been mentioned as One thousand nine hundred and sixty eight. Moreover, the charge sheet in this case was issued by the Deputy Superintendent of Police (DSP) who was not the competent authority and only verbal hearing was given to the plaintiff which is not, in accordance with the Punjab Police Rules, hence the due process was not followed.

8. Heard learned counsel representing the parties at length and perused the paperbook along with the requisitioned record.

9. Learned State counsel has submitted that the inquiry report submitted by the Deputy Superintendent of Police on 17.09.1992 is Ex.P-1. He has read over in the open Court, the plaintiff's statement recorded by the inquiry officer on 12.09.1992. In the aforesaid statement the plaintiff admitted that he had been looking for employment in the Army and he came in contact with someone who assured that his date of birth will be changed through the Punjab School Education Board from where the plaintiff has passed his matriculation examination. Accordingly, the plaintiff handed over the original matriculation certificate which was returned after 5 to 6 days and he always believed that the certificate has been legally corrected. He could not get employment in the Army however, he applied when the vacancy arose for the recruitment as Constable in the Punjab Police while admitting interpolation and he claimed innocence.

10. Learned counsel further submits that the order of punishment passed by the Disciplinary Authority/Appointing Authority is based upon the inquiry report and therefore, the First Appellate Court has erred in accepting the appeal. On the other hand, learned counsel representing the respondent, while referring to the judgment of the First Appellate Court, submits that this Court should not interfere with the finding of the fact.

11. The respective arguments of the learned counsel representing the parties have been analysed and the impugned judgments have been perused along with the requisitioned record. It is evident that the First Appellate Court has erred in observing that a proper departmental inquiry was not held. The statement of the plaintiff-Ashok Kumar was recorded in

writing which has been signed by Ashok Kumar. The inquiry officer has submitted the report on the basis of the aforesaid statement of Ashok Kumar wherein he admits interpolation in his matriculation certificate. Even the official from Punjab School Education Board- Darbara Singh has been examined, who has stated that the matriculation certificate has been interpolated. In these circumstances, the First Appellate Court erred in observing that the only difference is in the date of birth recited in the figure and the words. This Court also perused the matriculation certificate, which is the part of the trial Court record. From the naked eye, it is evident that the same has been interpolated.

12. Moreover, on 12.03.1999, the operation of the judgment and decree passed by the First Appellate Court was stayed. Accordingly, the plaintiff was not permitted to join the service.

13. Keeping in view of aforesaid facts, this Court is of the considered opinion that once the plaintiff has admitted that he has interpolated the matriculation certificate in order to get the employment, this Court does not find it appropriate to grant him any relief. Accordingly, the judgment of the First Appellate Court is set aside and the trial Court judgment is affirmed.

14. The present appeal is allowed. All pending miscellaneous applications, if any, stand disposed of.

(ANIL KSHETARPAL)
JUDGE

08.12.2023
pry

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No