

CWP-24533-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24533-2018 (O&M)

RESERVED ON 16.03.2023

DATE OF DECISION:- 11.04.2023

DHARAMPAL

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Manoj Sharma, Advocate
for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.
for the respondents.

SUVIR SEHGAL, J.

Petitioner has approached this Court seeking issuance of a writ in the nature of certiorari for setting aside order dated 24.07.2018, Annexure P-13, passed by respondent No.3 and for a writ in the nature of mandamus directing respondent No.3 to reinstate the petitioner in service with all consequential benefits.

In a nutshell, the case of the petitioner is that he was appointed as a driver with respondent No.3 on 13.08.1998 on contract basis. His services were governed by Haryana Transport Department (Group-C) Haryana Roadways Service Rules, 1995. Vide order dated 23.11.2007, his service was terminated on the ground that his driving license was found to be fake on verification. Petitioner filed a Civil Suit challenging the termination order, which was dismissed vide judgment dated 23.10.2012, Annexure P-4. Appeal, preferred by the petitioner, was allowed by the learned District Judge, Kaithal by judgment dated 20.05.2014, Annexure P-5, and the petitioner was directed to be reinstated in service on the original terms and conditions, without back wages. Regular Second Appeal No. 5859-2014, filed by the respondents was disposed of by this Court vide judgment dated 30.11.2017, Annexure P-6, directing respondent No.3 to issue a charge-sheet to the petitioner and to conduct an inquiry as to whether the original license submitted by the petitioner was valid or fake. Charge-sheet dated 18.12.2017, Annexure P-11, was issued to the petitioner to which he submitted reply, Annexure P-12. Petitioner was afforded an opportunity of hearing and vide impugned order dated 24.07.2018, Annexure P-13, licenses produced by the petitioner were found to be fake. Petitioner moved this Court by filing a writ petition, which was withdrawn on 06.09.2018, Annexure P-14, with liberty to file a fresh one with better particulars.

Upon notice, writ petition has been contested by the respondents by filing a response, wherein it has been submitted that not only the original license issued by the Licensing Authority, Hyderabad,

but also the license subsequently produced by the petitioner from the Licensing Authority, Mathura were checked up and found to be fake. It has been further submitted that as the petitioner did not possess a valid driving license, his services have been rightly terminated.

Counsel for the petitioner submits that before termination, no regular enquiry was conducted. Reliance has been placed by him upon verification report dated 16.04.2003, Annexure P-10, from the office of Assistant Regional Transport Officer, Mathura to submit that the driving license of the petitioner was valid. Still further, it is his claim that on the basis of instructions dated 20.08.2001, Annexure P-8, petitioner was issued a valid driving license by the Kaithal Transport Authorities on 26.11.2001, Annexure P-9. Counsel submits that similarly placed employees have been reinstated in service, whereas the petitioner has been discriminated against.

Countering the submissions, State counsel has argued that in the cases of the colleagues of the petitioner, the subsequent licenses produced by them, were found to be valid and that is why they were reinstated, whereas the petitioner possesses a fake driving license and his services have been terminated.

I have heard counsel for the parties and considered their respective submissions.

Both the driving licenses issued by the petitioner have been verified. Along with the written statement, respondents have placed on record a copy of letter dated 27.04.2007, Annexure R-1, received from the Regional Transport Officer, RTA, Hyderabad Centre, whereby, the

respondents have been informed that DL No.2667/88 dated 15.04.1988 was never issued in the name of the petitioner. By letter dated 26.05.2018, Annexure R-2, Assistant Divisional Transport Officer (Administration), Mathura informed respondent No.3 that driving license No.-B-1031/MTR/1996 has not been issued as per their office record nor any fee has been deposited in the name of the petitioner as per matching in the cash section on 11.10.1996. From these documents, it is evident that both the driving licenses on which the petitioner places reliance are forged. It is apparent that the petitioner had got the appointment as a Driver with the Haryana Roadways on the basis of documents, which have been found to be fictitious.

Petitioner has played fraud with the authorities. Mere fact that he had been in continuous employment for a period of nine years before the termination order was passed pales into insignificance as the very basis of the appointment of the petitioner is based on a fake certificate. In ***Regional Manager, Central Bank of India Versus Madhulika Guruprasad Dahir and others, (2008) 13 SCC 170***, Supreme Court observed as under:-

“14. Similarly, the plea regarding rendering of services for a long period has been considered and rejected in a series of decisions of this Court and we deem it unnecessary to launch on exhaustive dissertation on principles in this context. It would suffice to state that except in a few decisions, where the admission/appointment was not cancelled because of peculiar factual matrix obtaining

therein, the consensus of judicial opinion is that equity, sympathy or generosity has no place where the original appointment rests on a false caste certificate. A person who enters the service by producing a false caste certificate and obtains appointment for the post meant for a Scheduled Caste or Scheduled Tribe or OBC, as the case may be, deprives a genuine candidate falling in either of the said categories, of appointment to that post and does not deserve any sympathy or indulgence of this Court. He who comes to the Court with a claim based on falsity and deception cannot plead equity nor the Court would be justified to exercise equity jurisdiction in his favour.

15. *An act of deliberate deception with a design to secure something, which is otherwise not due, tantamounts to fraud. Fraud is a conduct either by letter or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. (See: R. Vishwanatha Pillai Vs. State of Kerala, (2004) 2 SCC 105, Bank of India (supra), Addl. General Manager (supra) Derry Vs. Peek, (1889) 14 AC 337, Ram Preeti Yadav Vs. U.P. Board of High School and Intermediate Education & Ors., (2003) 8 SCC 311 and Bhaurao Dagdu Paralkar Vs. State of Maharashtra & Ors., (2005) 7 SCC 605).*

16. *In Ram Chandra Singh Vs. Savitri Devi & Ors.* (2003) 8 SCC 319, this Court had observed that fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine.”

While passing the impugned order, respondent No.3 has also considered the cases of other drivers working in the Fatehabad Depot and found that they had another license, which was valid, when they joined the service. However, this is not the position in the case of the petitioner as both the licenses produced by him were found to be bogus.

In so far as the reliance of the petitioner upon the license issued by the District Licensing Authority, Kaithal, Annexure P-9, is concerned, it deserves to be noticed that this license was issued to the petitioner on the basis of an affidavit submitted by him that his original license is genuine. No driving test was conducted prior to the issuance of this license. This license had been issued pursuant to the instructions, Annexure P-8, issued by the Transport Commissioner, Haryana, wherein it was specifically provided that the licenses of all the drivers issued from outside the State should be got verified by seeking confirmation and in case no response is received from the licensing issuing authority within thirty days, fresh driving license should be issued on the basis of the affidavit of the license holder. Since the affidavit on the basis of which, license was issued by the Licensing Authority, Kaithal is itself false, petitioner cannot derive any benefit from it. Furthermore, it is matter of

record that the petitioner was engaged on a contract and was never confirmed on the post of a Driver. Therefore, petitioner did not have the protection of the Haryana Civil Services (Punishment and Appeal) Rules, 2016. In this background, there was no necessity to hold a regular enquiry before passing the termination order. There is no infirmity in the impugned order, which has been passed pursuant to direction passed by this Court in its judgment dated 30.11.2017, Annexure P-6.

Finding no merit in the petition, it is hereby dismissed.

Pending application(s), if any, shall stand disposed of.

(SUVIR SEHGAL)
JUDGE

11.04.2023
Kamal

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