

**In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side  
WPCT 55 of 2021**

**Union of India & Ors.  
Versus  
Rajkumaridevi & Anr.**

Mr. Sauvik Nandy,  
Ms. Oisani Mukherjee,  
... for the Petitioners

Mr. H. Ghosh,  
Mr. R. Sharma,  
... for the Respondents

1. The present writ petition is filed challenging the order dated 1<sup>st</sup> March, 2021 passed in O.A. 350/914/2017 by the Central Administrative Tribunal, Kolkata Bench.

2. **Facts of the Case**

a. The respondents made application for appointment of respondent no. 2 on compassionate ground along with graduation certificate issued by Vinoba Bhave University, Hazaribagh issued on 16<sup>th</sup> July, 2005 and also school certificate of High School Examination issued by Central Board of Higher Education, Vachaspati Bhawan Uttam Nagar, New Delhi incorporating date of birth of respondent no. 2 as 21<sup>st</sup> March, 1985. On verification by the petitioners through letters issued by the Section Officer (COORD) Central Board of Secondary Education Sikhsha Kendra, 2

Community Center, Preet Bihar, Delhi, Pin – 110092 and by the Commissioner of Police, Delhi, they came to know that the said school certificate produced by respondent no. 2 was a fake one. On being intimated about the same, the respondent no. 2 produced a Madhyamik Examination (Compartmental) Marksheet issued by the West Bengal Board of Secondary Education.

b. The petitioners considering both the certificates, by order dated 16<sup>th</sup> July, 2013 rejected the request of the respondents for appointment on compassionate ground on the ground that the respondent no. 2 earlier produced fake education certificate and the second certificate issued by the West Bengal Board of Secondary Education cannot be accepted as per the order of Chief Personnel Officer dated 27<sup>th</sup> March, 2009.

c. The respondents filed O.A. No. 350/00260/2015 challenging the letter and order of the petitioner no. 4, the Senior Division Officer, dated 16<sup>th</sup> July, 2013. Before the Tribunal, the learned counsel appearing for the respondents contended that the certificate produced by the respondent no. 2 issued by the Central Board of Higher Education, Vachaspati Bhawan Uttam Nagar, New Delhi is not a fake certificate but the Institute is not a recognized one. The Tribunal by

the order dated 23<sup>rd</sup> February, 2016 quashed the impugned letter therein passed by petitioner no. 4 and directed the petitioners to consider the request of the respondents afresh in terms of the certificate issued by the West Bengal Board of Secondary Education.

3. After the order of the Central Administrative Tribunal, the petitioner no. 4 passed the impugned order dated 1<sup>st</sup> July, 2016 again rejecting the request of the respondent nos. 1 and 2 on the same ground of producing fake certificate and order of the Chief Personnel Officer dated 27<sup>th</sup> March, 2009 stating that no second chance will be given to a person who earlier produced a fake certificate.

4. The respondent nos. 1 and 2 challenged the said order by filing O.A. No. 350/914/2017.

5. The Tribunal considering the impugned order set aside the said order on the ground that the petitioner no. 4 failed to take into account the direction given by the Tribunal in the earlier order dated 23<sup>rd</sup> February, 2016 passed in O.A. No. 350/260/2016.

6. Challenging the said order, the petitioners have come out with the present writ petition.

7. The petitioners have raised various grounds in the writ petition. In addition to the same, the petitioners filed supplementary affidavit enclosing order of the Commissioner of Police, Delhi dated 4<sup>th</sup> April, 2000. The

letter dated 27<sup>th</sup> March, 2009 of the Central Board of Secondary Education, Vachaspati Bhawan Uttam Nagar, New Delhi, letter of the respondent no. 4 dated 16<sup>th</sup> July, 2013, letter of the Chief Personnel Officer dated 27<sup>th</sup> March, 2009. The said supplementary affidavit along with documents is taken on record.

8. The learned counsel appearing for the petitioners elaborately referred to grounds raised in the present writ petition and the documents filed along with the writ petition and supplementary affidavit. The main contention of the learned counsel for the petitioners is that the respondent no. 2 has produced fake education certificate issued by the Central Board of Secondary Education, Vachaspati Bhawan Uttam Nagar, New Delhi. According to the order of the Chief Personnel Officer dated 27<sup>th</sup> March, 2009, no second chance will be given to the person who produced earlier fake certificate. Only after thorough investigation, the petitioner no. 4 has passed the speaking order rejecting the request of the respondent nos. 1 and 2 for appointment on compassionate ground. The reasons given by the Tribunal for quashing the impugned order is not valid and prayed for setting aside the order of the Tribunal and allowing the writ petition.

9. The learned counsel appearing for the respondents reiterated the stand taken by them before the Tribunal. The learned counsel appearing for the respondent nos. 1

and 2 referred to both the orders of the Tribunal and contended that the petitioner no. 4 failed to pass order taking into account the earlier order of the Tribunal dated 23<sup>rd</sup> February, 2016 directing the petitioners to consider the claim of the respondents afresh in terms of the certificate issued by the West Bengal Board of Secondary Education. The Tribunal considered the entire materials and set aside the impugned order of the petitioner no. 4 by giving valid reason and there is no reason to interfere with the said order and prayed for dismissal of the order.

10. Heard the learned counsel appearing for the petitioners as well as the respondents and perused the entire materials on record.

11. From the materials on record, it is seen that the respondent no. 1 sought for compassionate appointment for her son, the respondent no. 2, on the death of her husband while in service in the petitioners' Railways. The said request was rejected by the petitioners on the ground that respondent no. 2 produced the fake certificate and the certificate produced by the Central Board of Secondary Education, Vachaspati Bhawan Uttam Nagar, New Delhi is a fake one. According to the petitioner no. 4, in view of the order of the Chief Personnel Officer dated 27<sup>th</sup> March, 2009, once a person produced a fake certificate, no second chance will be given to him. From the earlier order of the Tribunal dated 23<sup>rd</sup> February, 2016, it is seen that Tribunal observed

that the reason advanced by the respondents to reject the claim was ridiculous. The operative portion of the above order is extracted herein for clarification:

*“5. In my considered opinion, the reason advanced by the respondents to reject the claim was ridiculous. The authorities ought to have considered the mark sheet issued by West Bengal Board of Secondary Education having probative value both in regard to educational qualification and also date of birth. It could be noted that the findings in regard to the certificate issued by Central Board of Higher Education, Vachaspati Bhawan, Uttam Nagar, New Delhi is not substantiated by way of any report from the appropriate authorities. Further, it could be noted that the School Authorities of Asansol Jonamul Jalan Institution have certified that as per the school records the date of birth of the applicant was 17.09.1981, duly corroborating the entries in the admit card issued by West Bengal Board of Secondary Education in favour of the applicant wherein the Roll No. and Registration No. and date of birth read as under:*

*“ROLL 0591 NO. 0692*

*Registration No. 812-01133 of 97-98 (IX)”*

*Date of Birth is SEVENTEENTH day of  
SEPTEMBER Nineteen hundred and  
EIGHTY ONE”*

*6. In such view of the matter, the impugned order is quashed and the matter is remanded back to the authorities to consider the matter afresh in terms of the certificate issued by the West Bengal*

*Board of Secondary Education, untrammelled by their earlier rejection.”*

12. The petitioners have not challenged the said order. In spite of the said order becoming final, the petitioners have not complied with the direction issued by the Tribunal and petitioner no. 4 passed the order dated 1<sup>st</sup> July, 2016 impugned in the O.A. No. 350/914/2017 without taking into consideration of the earlier order of the Tribunal dated 23<sup>rd</sup> February, 2016. Once the Tribunal has directed the petitioner no. 4/authorities to consider the application afresh and pass order in terms of the certificate issued by the West Bengal Board of Secondary Education, it is not open to both the petitioners to take into account the earlier certificate issued by the Central Board of Secondary Education, Vachaspati Bhawan Uttam Nagar, New Delhi. The petitioner no. 4 has committed an error when he took into account the earlier certificate, to pass the present impugned order dated 1<sup>st</sup> July, 2016. The Tribunal has considered the entire materials in proper perspective and quashed the order of the petitioner no. 4. There is no error in the order of the Tribunal and no reason to interfere with the said order.

13. For the above reasons, the writ petition is dismissed.

**(Tapabrata Chakraborty, J.)**

**(V.M. Velumani, J.)**