

Form No. J (2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**MAT 1493 of 2024
IA NO: CAN/2/2024**

**Union of India & ors.
vs.
Arjun Ghosh**

For the Appellants : Ms. Susmita Saha Dutta, Advocate

For the Respondent : Sk. Mujibar Rahman, Advocate
Mr. Shayak Mitra, Advocate

Heard on : 18.09.2024

Judgment on : 18.09.2024

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the Union of India and its functionaries and directed against the judgment and order dated February 6, 2024 passed in WPA 24017 of 2019.

2. By the impugned judgment and order, learned Single Judge set aside the order of dismissal from service imposed in a disciplinary proceeding as against the private respondent on the ground of the private respondent submitting fresh document to substantiate the claim that

private respondent belonged to the Other Backward Class (OBC) and in view of the provisions of the Central Reserve Police Force Act, 1949 and the Central Reserve Police Force Rules, 1955 which according to the learned Single Judge allows imposition of minor punishment if a document submitted at the time of appointment is found to be fake.

3. Learned advocate appearing for the appellants submits that, private respondent participated in the selection process on the basis of a caste certificate which was subsequently discovered to be fake. As soon as such discovery was made, disciplinary proceeding was initiated. In such disciplinary proceeding the charge that the document submitted as the caste certificate was established to be fake. Disciplinary Authority passed a final order of dismissal from service as against the private respondent. Private respondent preferred an appeal which was dismissed.

4. Learned advocate appearing for the appellants submits that, since the caste certificate submitted by the private respondent at the time of grant of appointment, was established to be a fake and since, private respondent received the appointment on the basis of such a fake document, learned Single Judge erred in allowing the writ petition.

5. Learned advocate appearing for the private respondent submits that, the private respondent belongs to the OBC class. He submits that, a fresh certificate was submitted to the authorities which requires consideration. He also submits that, the Act of 1949 read with the Rules

of 1955 allows imposition of a minor punishment in such circumstances. Moreover, the learned Single Judge directed the authorities to consider the fresh certificate.

6. Private respondent participated in a selection process on the basis of OBC certificate dated September 8, 2016. On the basis of such certificate, private respondent was considered as an OBC category candidate and granted appointment.

7. Authorities subsequently discovered that the certificate furnished by the private respondent was fake. Disciplinary proceeding was initiated. In such disciplinary proceeding, the private respondent was charged with submitting a fake OBC certificate. In such disciplinary proceeding such charge was established as against the private respondent. Disciplinary Authority imposed punishment of dismissal from service. Private respondent carried an appeal against such decision which was dismissed. Aggrieved, private respondent filed a writ petition which resulted in the impugned judgment and order.

8. Learned Single Judge considered the fact that, the private respondent claimed to be belonged to the OBC category. Private respondent produced another certificate to establish such claim before the authority. Learned Single Judge proceeded to direct the appellant to verify the subsequent caste certificate dated June 8, 2016 and in the event, the same was found genuine, the Disciplinary Authority was directed to

impose minor punishment under Section 11 of the CRPF Act, 1949. Learned Single Judge also made it clear that, in the event subsequent caste certificate dated June 8, 2016 was found to be fake or false, the authorities were under no obligation to alter the punishment as imposed upon the private respondent.

9. Learned Single Judge while issuing such directions relied upon **2016 SCC OnLine Cal 7495 (Subrata Mondal vs. Union of India & Ors.). Subrata Mondal (supra)** misunderstood and misapplied a Division Bench judgment reported at **2011 SCC OnLine Cal 3538 (Registrar General, High Court vs. Srinibas Prosad Shah)** cited before it. **Srinibas Prosad Shah (supra)** is a case where the requisite caste certificate was not submitted at the time of appointment. It was subsequently submitted.

10. In the facts of the present case as well as in **Subrata Mondal (supra)** a fake certificate was submitted for obtaining the appointment. Appointment was obtained on the basis of a fake document. Appointment so obtained cannot be sustained.

11. Contention of the private respondent that he worked for 16 years without blemish and that the Rules of 1955 as well as those governing the solution process require verification of the antecedents of the candidate is of no consequence. Length of service does not erase the illegality if the entry is illegal. Failure to verify the documents submitted by a candidate at the time of entry or subsequent discovery of document

submitted as false does not permit a candidate to submit a fake document to obtain employment. Duty of good faith and fair dealing is ingrained in any contract and more so in a contract of employment. One may profitably refer to ***(1986) 3 Supreme Court Cases 156 (Central Inland Water Transport Corporation vs. Brojo Nath Ganguly)*** in this regard.

12. Neither at the stage of the leaving of the writ petition before the learned Single Judge nor before us, on the basis of the materials made available on record, it is established that, the initial certificate submitted by the private respondent while obtaining his appointment, was not fake. It is contended today that, the private respondent was not aware of the certificate so submitted at the time of obtaining the employment was fake.

13. Such a plea in our view is specious. Private respondent submitted a certificate on the basis of which he claimed himself to belong to a particular caste. It is on such basis that, private respondent obtained the employment. The document so submitted was conclusively established to be a fake. Even today, there is no material to suggest otherwise.

14. In such circumstances, neither the disciplinary proceeding nor the punishment imposed in such disciplinary proceeding can be faulted. Appellant entered service on the basis of a document which is fake. Such document relates to an essential qualification as to his claim for reserved category consideration. It was considered in the reserved category on the basis of such false document.

15. In such circumstances, we set aside the impugned judgment and order dated February 6, 2024. Order of punishment imposed as against the private respondent is reinstated.

16. MAT 1493 of 2024 along with connected application are disposed of without any order as to costs.

(Debangsu Basak, J.)

17. I agree.

(Md. Shabbar Rashidi, J.)