



W.P.No.19155 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.01.2024

PRONOUNCED ON : 28.06.2024

CORAM:

THE HON'BLE Dr. JUSTICE D.NAGARJUN

W.P.No.19155 of 2015

and

M.P.No.1 of 2015

V.Selvakumar

...Petitioner

versus

1. The Management of Tamil Nadu,
State Transport Corporation (Salem) Limited,
No.12, Ramakrishna Salai,
Salem District.

2. Special Deputy Commissioner of Labour,
Labour Court,
Chennai.

...Respondents.

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the entire records culminated in passing the order dated 12.01.2015 in A.P.No.140 of 2011 on the file of the second respondent, quash the same and consequently direct the first respondent Management to reinstate the petitioner in service as Driver in the respondent corporation with all service and monetary benefits from 12.12.2010.



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For Petitioner : Mr.C.Kanagaraj

For Respondent : M/s.M.Aswin for R1

ORDER

This Writ Petition is filed seeking for certiorarified mandamus to quash the proceedings of the Approval Petition in A.P.No.140 of 2011 dated 12.01.2015.

2. The facts in brief as per the records are as under: The petitioner has completed 10th standard and obtained license to drive heavy vehicle. He has enrolled his name in the Employment Exchange and later joined in the first respondent State Transport Corporation (Salem), as a Driver on daily wage basis and his service were regularized as per proceedings dated 10.08.2010. On 12.12.2010, when the petitioner went to attend the duty, he was not permitted to attend the duty.

3. He has filed Writ Petition No.29430 of 2010 seeking Mandamus to direct the respondents to permit the petitioner to join duty as Driver in the respondents corporation. During the pendency of the Writ Petition, a



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charge memo was issued on 18.12.2010 to the petitioner stating that he has submitted bogus educational testimonials to get appointed in the post of Driver. The petitioner has submitted explanation stating that he failed in 10th standard in English and Tamil subjects, thereby he joined Tamil Nadu Tutorials, Thadagapatti, Salem and has written Tamil and English subjects, later he has received the mark sheet by registered post, thereby, he has registered in the Employment Exchange that he has completed the SSLC. He is no way connected or responsible for the alleged bogus mark sheets. Ignoring the explanation submitted by the petitioner, he was not permitted to join the duty. The petitioner has filed W.P.No.813 of 2011, seeking for a direction to reinstate him. The said Writ Petition was disposed of with a direction to the management to furnish the copy of the report received from the Directorate of Government Examination.

4. A notice was issued to the petitioner on 09.03.2011 to submit explanation as to why he should not be dismissed from service. He has submitted explanation to drop the charges. An enquiry was conducted, the petitioner has appeared and explained, ultimately charges were proved and as per proceedings dated 19.05.2011, the petitioner was



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dismissed from service. The management has filed an application under Section 33 (2) (b) of the Industrial Disputes Act for approval in respect of his dismissal on 19.05.2011. The second respondent by way of impugned order dated 12.05.2015 in A.P.No.140 of 2011 has given approval. Aggrieved by the same, the present Writ Petition is filed.

5. It is submitted by the learned counsel for the petitioner that he was suffering from Chickenpox as such he could not participate in the enquiry on which exparte enquiry was conducted against the petitioner. The petitioner was not given the copy of report received from the Directorate of Government Examinations, and that the respondent corporation has pre-determined that the certificates submitted by the petitioner are bogus and that the punishment of dismissal from service is excessive and disproportionate.

6. Learned counsel for the respondent has not filed the counter affidavit.

7. Heard both sides and perused the records.



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8. According to the respondent corporation, the petitioner has submitted bogus educational qualifications certificates, thereby, an enquiry was conducted after issuing the charge memo to the petitioner and the petitioner has participated in the enquiry and enquiry officer has gave a finding that the petitioner is guilty of misconduct, thereby, he was terminated and subsequently, the Labour authorities have also given approval by way of impugned order therefore, the termination cannot be interfered with.

9. Learned counsel for the petitioner on the other hand submitted that he is not responsible of producing the bogus educational certificates and there is no material to prove that the certificate produced by him are bogus and the punishment is disproportionate. The law insofar as submission of bogus certificates are settled.

10. The Hon'ble Apex Court in *Union of India (UOI) Vs. Dattatray and Ors*, reported in (2008)4SCC612, and also in another case decided in *State of U.P. and Ors. Vs. Ravindra Kumar Sharma*



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and Ors., reported in (2016)4 SCC 7 91, has dealt with the issue of submission of bogus certificate for securing the employment and the relevant portion reads as under:

“8. In Ram Chandra Singh v. Savitri Devi MANU/SC/0802/2003 : (2003) 8 SCC 319 it was held thus:

15. Fraud as is well known vitiates every solemn act. Fraud and justice never dwell together.

16. 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 word or letter.

17. It is also well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against fraud.



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18. *A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law. If a party makes representations which he knows to be false, and injury ensues there from although the motive from which the representations proceeded may not have been bad. Xxx*

23. *An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Xxx*

25. *Although in a given case a deception may not amount to fraud, 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 including res judicata.*

26. *In Shrisht Dhawan v. Shaw Bros. MANU/SC/0295/1992 : (1992) 1 SCC 534, it has been held that: (SCC p. 553, para 20)*



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20. Fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. It is a concept descriptive of human conduct.Xxx

29. In Chittaranjan Das v. Durgapore Project Ltd. MANU/WB/0090/1994 : (1995) 99 CWN 897, it has been held: (Cal LJ p. 402, paras 57-58)

57. Suppression of a material document which affects the condition of service of the Petitioner, would amount to fraud in such matters. Even the principles of natural justice are not required to be complied with in such a situation.

58. It is now well known that a fraud vitiates all solemn acts. Thus, even if the date of birth of the Petitioner had been recorded in the service returns on the basis of the certificate produced by the Petitioner, the same is not sacrosanct nor the Respondent company would be



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bound thereby.”

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11. Further the petitioner herein on careful examination of his defence has not mentioned specifically that the certificates produced by him are genuine. He has only pleaded that he shall not be made responsible for submission of bogus certificates. According to him, having failed in two subjects in SSLC, he has appeared examination a Tutorial college by name Tamil Nadu Tutorials, wherein he has subsequently received passed certificates along with mark sheet by registered post and accordingly he has enrolled his name in the Employment Exchange and later got selected in respondent Transport corporation as Driver.

12. However, the respondent corporation has sent the educational certificates of the petitioner for verification and the documents received from the Directorate of Government Examinations go to show that the certificates submitted by the petitioner are bogus. It is to be noted on account the said bogus certificates only, the petitioner has got



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employment. Normally, the said job should have been offered to a genuine person who has got valid certificates. The petitioner has not only committed the offence of submitting bogus certificates but also deprived the opportunities of other genuine persons. Further by way of submitting the bogus certificates he got employment and he has drawn the salaries from the state exchequers, thereby, the petitioner cannot be pardoned and the case of the petitioner cannot be considered sympathetically.

13. It is even said, since the petitioner has played fraud by submitting bogus educational certificates and secured job, even during the course of enquiry, principles of natural justice have not been followed, but however, in the case on hand, the petitioner has also participated in the enquiry, the charges were proved and found the petitioner guilty of the misconduct and was dismissed from service. The Approval Petition filed before the Labour Authority has gone through all the aspects and come to the conclusion that the dismissal of the petitioner from service is justified.

14. This Court can interfere in the impugned orders only if it is



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shown that the impugned orders are patently perverse and passed by violating the principles of natural justice and ignoring the settled principles of law. However, in the case on hand, there is nothing to hold that principles of natural justice have not been followed and considering all the above, this Court is of the opinion that the impugned orders passed by the Labour Authority are not perverse and there are no merits.

15. In the result, the Writ Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

28.06.2024

Index : Yes / No
Speaking/Non-speaking Order
Neutral Citations: Yes/No
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To

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2. Special Deputy Commissioner of Labour,



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Labour Court,
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Dr.D.NAGARJUN, J.
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Pre-delivery Order.
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