

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

110

2024:PHHC:039504-DB
LPA-990-2023 (O & M)
Date of Decision: 11.03.2024

Dharampal

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Sandeep Lather, Advocate,
for the appellant.

Mr. Deepak Balyan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. Consideration in the present letters patent appeal is to the order dated 11.04.2023 passed by the learned Single Judge in CWP-24533-2018 whereby the writ petition was dismissed.

2. The learned Single Judge found that the writ petitioner was engaged on contract basis and was never confirmed as a Driver and, therefore, there was no necessity to hold regular inquiry before passing of the termination order. It was held that the order under challenge which was dated 24.07.2018 (Annexure P-13) had been passed in pursuance of the directions issued by this Court in the judgment dated 30.11.2017 (Annexure P-6). It was noticed that the writ petitioner had apparently secured appointment as a Driver with respondent No.3 on 13.08.1998 on contract basis and the licenses issued to him had been verified which had been found to be forged (Annexure R-1). One license had been allegedly issued from the Regional Transport Officer, RTA, Hyderabad Centre whereas the other was allegedly issued from Mathura. Keeping in view the fact that the employment as such of nine years was on the basis of forged

documents, the writ petition was dismissed.

3. Counsel for the appellant has vehemently contended that an opportunity should be given and as per the instructions dated 20.08.2001 (Annexure P-8), he was liable to continue in service as the State itself had issued instructions that in case fresh licence was there, the appellant was to be treated as eligible to continue. He has referred to the fact that he had got a valid licence issued from Kaithal in the year 2001 (Annexure P-9) in order to support his case which was after his initial appointment and was not the basis of employment.

4. We are not impressed with the argument as such. The instructions dated 20.08.2001 (Annexure P-8) are only regarding the verification which has to be done from other Licensing Authorities and in case the verification is not complete, the opportunity has to be given to the drivers who are working in depots to avoid difficulties. The instructions do not, in any manner, hold out that persons who are having forged driving licenses can be given a license as such to continue by virtue of getting another license after their services were terminated or during the period of their service. It would amount to giving a premium as such to dishonest persons who secure appointment on forged documents, which is an offence in itself. The instructions were issued only in pursuance of the judgment of the Apex Court in *New India Insurance Company, Shimla vs. Kamla, 2001 (3) RCR (Civil) 716* since State was feeling the heat as such regarding the liability to pay the compensation on account of forged licenses by their drivers who were involved in accidents as the company was obviously shielded from recovery or liability to pay any compensation. The whole purpose as such was to secure drivers having genuine licenses. The Apex Court has time and again also held that regarding professional drivers who are driving on highways, a strict view is to be taken even if they are sentenced under Section 304A IPC and also the benefit of release on probation in such cases has been limited. Reliance can be placed upon

the judgment of the Apex Court rendered in *Rattan Singh vs. State of Punjab, (1979) 4 SCC 719* in this regard. In *Dalbir Singh vs. State of Haryana, (2000) 5 SCC 82*, the similar view was taken regarding professional drivers who were to be kept under constant reminder of the duty. The sentencing aspect of one year was not interfered with keeping in view the said fact that he paddles the accelerator of the auto mobile almost throughout his working hours and, therefore, there can be no single moment of laxity or inattentiveness when the vehicle is in locomotion.

5. In *State of Punjab vs. Balwinder Singh and others, (2012) 2 SCC 182*, the order of the High Court reducing the sentence to 15 days' imprisonment was set aside keeping in mind the fact that 5 persons had died while driving in the bus and, therefore, the sentence of two years imposed by the Magistrate as such which had been upheld by the Additional Sessions Judge, Amritsar had been wrongly interfered with. In such circumstances, to grant any benefit to persons who do not have the valid driving license is not called for. The appellant secured appointment on 13.08.1998 and the termination was done on 23.11.2007 which was the subject matter of challenge. It is not disputed that on account of the fact that civil suit had been filed and eventually the appellant was successful in appeal before the District Judge and the matter had reached this Court in RSA-5859-2014, which was heard and decided alongwith RSA-5851-2014 on 30.11.2017 (Annexure P-6) and the learned Single Judge, at that point of time, had held that an enquiry be conducted so that the charge sheet can be served upon the workman and an opportunity should be given before dispensing with the services. The needful has apparently been done and thereafter the order of termination had been passed on 24.07.2018 (Annexure P-13) whereby after due verification, it was found that the two licenses which had been issued were not valid.

6. The employee had sought to distinguish that case on the ground that

7. The General Manager, in this regard, found that the said persons' licenses were found valid during verification and, therefore, they were reinstated which were in consonance with the instructions. Resultantly, a finding was recorded that there is no right of reinstatement with the appellant. The appellant was never put back in service by the learned Single Judge and the time period for concluding the inquiry had been fixed with costs in case it exceeded the period of eight months. In such circumstances, the appellant having been out of service since 23.11.2007, the learned Single Judge was justified in not allowing the writ petition whereby challenge had been raised to the order dated 24.07.2018 (Annexure P-13).

8. Accordingly, finding no merit in the order passed by the learned Single Judge, the present appeal is dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

11.03.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No