

**IN THE HIGH COURT AT CALCUTTA
(CONSTITUTIONAL WRIT JURISDICTION)**

APPELLATE SIDE

Present:

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 17111 of 2018

Sanjay Singh

-Vs.-

The Union of India & Ors.

For the Petitioner : Mr. Arkadipta Sengupta.

For the UOI : Ms. Chandreyi Alam.

Heard on : 16.04.2025

Judgment on :06.05.2025

Partha Sarathi Chatterjee, J.:-

1. The present writ petition challenges the legality and propriety of the order dated 08.10.2013 passed by the Appellate Authority in a statutory appeal, whereby the final order of punishment dated 19.11.2011 issued by the Commandant removing the petitioner from service was affirmed. In addition, the petitioner seeks a direction to the concerned respondent to consider and dispose of his representation dated 20.10.2012.

2. In order to appreciate the controversy, it would be prudent to refer to the key facts as set out in the writ petition, which are as follows:

- a) The petitioner joined the Central Reserve Police Force (CRPF) as a Constable (GD) on 7th July, 2004. At the time of entry into service, he submitted his original provisional mark sheet and a certificate of Secondary Education.
- b) Pursuant to Standing Order No. 3 of 2004 dated 31st May, 2004, a verification of the petitioner's date of birth and educational qualifications was undertaken. During the course of this verification, the Secretary, Regional Office, Madhyamik Shiksha Parishad, Meerut, informed the authorities, through communications dated 27th July, 2010 and 13th October, 2010, that the result of the Secondary Examination for Roll No. 1389137 (year 1996) had been withheld. The petitioner had been issued a provisional mark sheet and certificate as of that date. It is pertinent to note that, in that examination, the petitioner's roll number was 1389137.
- c) The petitioner approached the Secretary, Regional Office, Madhyamik Shiksha Parishad, Meerut, for resolution of the issue relating to the provisional certificate. In response, the Secretary issued a direction to the school authorities to issue a 'permanent mark sheet'. Subsequently, the Secretary, vide his letter dated 30th April, 2011, affirmed that the final result of the Secondary Examination in which the petitioner had appeared was declared on 15th January, 2011.

- d) In 2011, while the petitioner was posted in 129 Bn, a charge-sheet dated 15th May, 2011, was served upon him, accusing him of joining the force on the basis of a fake certificate of secondary examination.
 - e) The petitioner submitted his reply to the charge-sheet. However, the Disciplinary Authority (in short, DA) found the reply unsatisfactory and decided to proceed with the departmental inquiry. Upon conclusion of the inquiry, the Inquiry Officer (in short, IO) submitted his findings, holding the petitioner guilty of the charge. The DA concurred with the findings and issued an order of removal from service on 19th November, 2011.
 - f) The petitioner filed a statutory appeal, but the appeal was dismissed by an order dated 3rd May, 2012. Subsequently, the petitioner filed a revisional application before the competent authority; however, the revisional application was rejected by the Inspector General of Police through his letter dated 12th September, 2012. The petitioner then filed a mercy petition before the Special Director General, Central Zone, CRPF, Kolkata, but the same was dismissed by an order dated 8th October, 2013.
3. The specific case sought to be made out in the writ petition is that, following a dispute, the petitioner's result was withheld. A writ petition was filed by the petitioner before the Hon'ble High Court at Allahabad, which was disposed of with a direction to the competent authority to publish the result. Prior to this, the petitioner had been issued a provisional mark sheet and certificate by the school. Subsequently, the original mark sheet was issued, and the petitioner submitted

his original provisional mark sheet at the time of entry into service. However, the provisional certificate provided by the school was later found to be improper.

4. However, the petitioner appeared in the Secondary Examination and successfully passed the examination, and it has been established that the mark sheet reflects the correct marks obtained by the petitioner in that examination. Therefore, by producing the certificate initially issued in his favor by the school authority, the petitioner did not gain any undue advantage or wrongful gain.
5. Upon concluding that the writ petition should be decided after the exchange of affidavits between the parties, a Coordinate Bench directed the respondents to file affidavits-in-opposition and granted the petitioner liberty to file a reply thereto.
6. The crux of the defense presented in the affidavit is that the petitioner produced a high school educational certificate bearing serial number 0840920, Roll number 1389137, for the year 1996, which was signed by Mr. Dinesh Chandra Kanojia, Secretary, Education Board, Uttar Pradesh.
7. To verify the authenticity of the certificate, the DIGP, GC, CRPF, Bhopal (MP), vide his letter dated 17th December, 2008, requested confirmation from the competent authority regarding the authenticity of the certificate. In response, a verification report dated 27th July, 2010, was issued by the concerned Administrative Office, confirming that the petitioner had passed the examination with 349 marks. However, doubts arose when it was revealed from the records that the petitioner's result had been withheld. Consequently, further steps were taken to verify the authenticity of the certificate. The Regional Secretary, vide his

letter dated 13th October, 2010, informed that no certificate bearing number 0840920 had ever been issued in favour of the petitioner.

8. Upon receipt of the verification report, the petitioner was directed to explain the facts and provide clarification. At that time, the petitioner submitted a certificate bearing No. 01243 and a mark sheet bearing Serial No. 9497. Subsequently, through further verification, it was discovered that the certificate with Serial No. 0840920 had never been issued by the Board. Based on this verification report, disciplinary proceedings were initiated. The petitioner was provided ample opportunity to defend himself. After evaluating the evidence presented by the management, the IO found the petitioner guilty of the charges. The DA concurred with the findings and issued an order of removal. The petitioner's revision petition and mercy petition were also processed in accordance with the prescribed procedure. There was no illegality or irregularity in the decision-making process.
9. Mr. Sengupta, learned advocate for the petitioner, contended that the respondents cannot deny that the petitioner appeared in the Secondary Examination in 1996 under the Board and passed the examination in the Second Division, securing 349 marks. Upon verification, it was established that the original mark sheet provided to the petitioner was authentic, and its genuineness is beyond suspicion. However, the petitioner was charged with the allegation of securing employment through the submission of a fake Madhyamik pass certificate.
10. He submits that the certificate previously provided to the petitioner by the school authority was submitted by him at the time of his entry into service.

Subsequently, a new educational certificate was issued in his favour, bearing a different serial number. He further contends that a certificate merely certifies an existing fact. These issues were raised before the concerned authority, but the authority overlooked them and arrived at an erroneous conclusion.

11. In rebuttal, Ms. Alam, learned advocate for the respondents, submits that the notice inviting applications from eligible candidates required the submission of mark sheets and certificates. Even assuming, for the sake of argument, that the petitioner submitted a mark sheet reflecting the actual marks obtained by him in the examination, it has been established that the petitioner produced a fake certificate. The submission of a fake certificate to secure employment constitutes misconduct in itself. She further argued that there was no illegality or irregularity in the decision-making process.
12. In disciplinary proceedings, the scope of judicial review is generally limited to examining the decision-making process. The authority to punish an employee lies within the employer's domain, and courts generally avoid interference unless it is shown that the disciplinary process was flawed due to a failure to follow established legal norms or principles of fairness. This could include instances where the employee was not given a fair chance to present their defence or where the penalty imposed is excessively harsh in relation to the misconduct that was proven.
13. In the present case, as previously noted, a charge-sheet containing a list of witnesses and documents was issued against the petitioner on the allegation that he had submitted forged educational certificate No. 0840920 and a mark sheet to

gain entry into service, thereby committing an offence punishable under Rule 27 of the CRPF Rules, 1955.

14. As previously noted, the petitioner submitted a reply to the charge-sheet. He was given an opportunity to cross-examine the prosecution witnesses; however, he chose not to avail himself of that opportunity. Upon evaluating the evidence placed on record, the Inquiry Officer concluded that the charge levelled against the petitioner was proved.
15. The Disciplinary Authority concurred with the findings of the Inquiry Officer and imposed the punishment of removal from service. The statutory appeal and the revisional application submitted by the petitioner before the respective authorities were also dismissed.
16. At the time of his entry into service, the petitioner submitted a certificate bearing No. 0840920 along with a mark sheet. Subsequently, the school authority forwarded a copy of a certificate bearing No. 01243. On this basis, the Disciplinary Authority concluded that the certificate initially submitted by the petitioner (Sl. No. 0840920) was forged. However, the mark sheet produced by the petitioner accurately reflected the marks he had obtained in the examination.
17. The petitioner has failed to demonstrate any infirmity in the decision-making process. He is also unable to establish that he was denied a fair opportunity to defend himself.
18. A job essentially constitutes a contract between the employer and the employee. If either party is misled due to the submission of a forged or fraudulent certificate or document, the entire contract becomes void ab initio. A party who induces the other into a contract through misrepresentation cannot subsequently

claim any benefit under that contract. On this reasoning, the petitioner's appointment must be regarded as void ab initio and inherently unlawful. In such cases, the appropriate course of action is the termination or cancellation of the appointment, a view that finds support in a series of decisions of the Hon'ble Supreme Court. It is a well-settled principle of law that a person may be deprived of legal rights if they have acted in a manner that renders it fraudulent for them to assert those rights. In view of the above, I am of the opinion that the Disciplinary Authority did not commit any error in imposing the punishment of removal from service.

19. Therefore, in view of the foregoing discussion, I am of the considered opinion that no interference is warranted in the present writ petition.
20. Consequently, the writ petition is, thus, disposed of. However, there shall be no order as to the costs.

(Partha Sarathi Chatterjee, J.)