

08.05.2025

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Ct.No.7

sdas

WPA 15022 of 2016

Swapan Pramanik

Vs.

Union of India & Ors.

Mr. Rabindranath Mahato

....for the petitioner

Affidavit-of-service filed in Court be taken on record.

Despite service, the respondents are unrepresented.

This writ petition has been filed questioning the legality and propriety of the order dated 29th January, 2016, passed by the Inspector General of Police (West Bengal Sector), Central Reserve Police Force (in short, CRPF), in a statutory appeal preferred by the petitioner. The appeal arose from an order of punishment of removal from service imposed upon the petitioner pursuant to a disciplinary proceeding. Additionally, the petitioner prays for a direction upon the respondents for his reinstatement to the original post along with all consequential benefits.

Briefly stated, the relevant facts leading to the filing of this writ petition are that the petitioner was enrolled in CRPF as a Constable under the OBC category, pursuant

to an appointment letter issued in his favour on 29th April, 2000. After serving for nearly 11 years, a charge-sheet was issued against him alleging that he had submitted a forged OBC certificate at the time of his initial appointment. In response, the petitioner submitted a written reply to the charge-sheet. However, the disciplinary authority found the explanation unsatisfactory and decided to initiate a departmental enquiry against him.

Upon conclusion of the enquiry, the Enquiry Officer (EO) returned his findings, holding that the allegation brought against the petitioner had been substantiated. The Disciplinary Authority (DA), concurring with the findings of the Enquiry Officer, accordingly imposed the penalty of removal from service upon the petitioner.

The final order of punishment was challenged by the petitioner by preferring a writ petition, being W.P. No. 28423(W) of 2014, which was disposed of on 4th May, 2015. By that order dated 4th May, 2015, a co-ordinate Bench of this Court set aside the final order passed by the DA and remanded the matter back to the authority with a direction to consider the fact that the petitioner had subsequently produced a genuine OBC certificate and to take an appropriate decision in that regard.

In deference to the order dated 4th May, 2015, the authority reviewed the matter. However, despite taking note of the fact that the petitioner had subsequently

produced a genuine OBC certificate, the authority ultimately concluded that the petitioner had committed misconduct by submitting a fake certificate at the time of entry into service. Accordingly, the Disciplinary Authority issued an order dated 28th June, 2015, reaffirming the earlier decision of removal from service. The petitioner challenged the said order in a statutory appeal, which was also decided against him. Given the circumstances, the petitioner has been constrained to file the present writ petition.

Mr. Mahato, learned advocate representing the petitioner, submits that a certificate serves the purpose of certifying an existing fact and does not confer any right upon an individual. According to him, a person belongs to the OBC category by birth, and this status is not dependent on the certificate itself. He further submits that although the petitioner initially produced a fake certificate at the time of entry into service, it is an undisputed fact that the petitioner is, in fact, a member of the OBC category. This fact has been duly certified by a genuine certificate, issued by the competent authority at a later date, which was subsequently submitted to the concerned authority.

However, as the authority concerned did not give any weight to the subsequent certificate, the petitioner was compelled to file the writ petition, W.P. No. 28423(W) of 2014. A co-ordinate Bench of this Court, by passing an

order, directed the authority to take note of the fact. Nevertheless, the disciplinary authority stuck to its earlier decision, which the petitioner contends was done illegally. According to the petitioner, the order subsequently passed by the disciplinary authority was not in accordance with the spirit of the order passed by this Court in W.P. No. 28423(W) of 2014. In support of his contention, he cites the decision reported in (2011) 4 Cal LT 75 (Registrar General, High Court, Calcutta vs. Shrinivas Prasad Shah).

In disciplinary matters, the scope of judicial review is generally confined to examining the decision-making process. However, the Court may expand the scope of judicial review if it finds that the decision is perverse, i.e., based on no evidence, or if the punishment imposed on the delinquent employee is disproportionate to the misconduct.

In the present case, it has not been contended on behalf of the petitioner that there was any infirmity or perversity in the decision-making process. The petitioner was given an opportunity to submit a reply to the charge-sheet. Furthermore, it has not been argued that the petitioner was denied the opportunity to cross-examine the prosecution witnesses during the enquiry proceedings. Therefore, it can be presumed that the petitioner was afforded a fair opportunity to defend himself.

As noted earlier, the petitioner's primary contention is that the authority has unlawfully failed to give due weight to the subsequent genuine OBC certificate. The petitioner argues that, in light of this fact, the disciplinary authority should have exonerated him from all charges, recognizing that he is a legitimate OBC candidate. Furthermore, the petitioner submits that the act of producing a fake certificate at the time of his entry into service should have been condoned.

Even if an illegal action is subsequently legalized upon the fulfillment of certain conditions or contingencies, it cannot be said that, on the relevant date, the act was not misconduct. The production of a fake document and inducing anyone to act on the basis of that document constitutes misconduct in itself. On the relevant date, the misconduct had already occurred and can never be legitimized by any subsequent event. In the present case, the issue is not whether the petitioner is, in fact, a member of the OBC category. The central question is whether, at the time of entry into service, the petitioner resorted to the illegal act of producing a fraudulent document to induce his employer to accept the false representation and act accordingly.

The order dated 28th June, 2015, particularly paragraph 15 thereof, reflects that the production of the genuine certificate by the petitioner was taken into account. However, it was concluded that the petitioner

had consciously submitted a fake OBC certificate at the time of his entry into service. In the order dated 4th May, 2015, passed in W.P. No. 28423(W) of 2014, the Bench directed the authority to take note of the subsequent production of the original document. It was also clarified in the order that while the disciplinary authority could maintain the same punishment, it must provide adequate reasons to support such a decision. The Bench further observed that the disciplinary authority should consider whether the petitioner was entitled to the benefits claimed under the apparently illegitimate document. As noted earlier, the disciplinary authority took cognizance of this fact, considered the submission of the subsequent document by the petitioner, and passed a reasoned order.

A job is, in essence, a contractual arrangement. It is a well-settled proposition of law that if a party to a contract induces another to act by relying on a forged or fake document, the contract shall be deemed void *ab initio*. It is also a well-established legal principle that a person may be deprived of his legal rights if he conducts himself in a manner that would render it fraudulent for him to assert or rely upon those rights. In a catena of decisions, the Hon'ble Supreme Court has consistently held that a person who gains enrolment in a disciplinary force by producing a fake certificate or through any form of misrepresentation cannot be allowed to remain in service or be directed to be retained in the force.

There can be no doubt in accepting the binding precedent established by the decision cited by Mr. Mahato. However, the same is distinguishable on the facts of the present case.

Therefore, based on the discussions and reasons outlined in the preceding paragraphs, I am of the considered opinion that the order passed by the co-ordinate Bench has been duly complied with, and there is no infirmity in the orders passed by either the disciplinary authority or the appellate authority. As such, no interference is warranted in this writ petition.

Accordingly, the writ petition is, thus, dismissed.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)