

1

W.A.(MD)No.909 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.909 of 2023

AND

C.M.P.(MD)No.7187 of 2023

1. The Bharat Petroleum Corporation Ltd.,
Rep. by its Chairman & Managing Director,
Bharat Bhavan, 4&6, Currimbhoy Road,
Ballar Estate, Mumbai 400 001.
2. The Director(Marketing),
The Bharat Petroleum Corporation Ltd.,
Bharat Bhavan, 4&6, Currimbhoy Road,
Ballar Estate, Mumbai – 400 001.
3. The Executive Director(Retail) /
Disciplinary Authority,
The Bharat Petroleum Corporation Ltd.,
12 E&F, Maker Towers,
Cuff Parade, Mumbai – 400005.
4. The General Manager,
Human Resource(Retail),
The Bharat Petroleum Corporation Ltd.,
12 E&F, Maker Towers,
Cuff Parade, Mumbai – 400 005.
5. The Territory Manager,
Bharat Petroleum Corporation Ltd.,
Trichy Retail Territory,
1st Floor Towers, Near Kalaignan Arivalayam,
Karur Bypass Road, Trichy – 620 002.

... Respondents /
Appellants

Vs.

Dax Mohan

... Petitioner / Respondent



Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the writ appeal and set aside the order dated 12.01.2023 made in W.P. (MD)No.16452 of 2020.

For Appellants : Mr.J.P.Cama, Senior counsel for Ms.P.Malini.

For Respondent : Mr.Isaac Mohanlal, Senior counsel,
for M/s.Isaac Chambers.

J U D G M E N T

(By G.R.SWAMINATHAN, J.)

Bharat Petroleum Corporation Limited has filed this appeal challenging the order dated 12.01.2023 passed by the learned single Judge allowing W.P.(MD)No.16452 of 2020 filed by the respondent herein (hereinafter referred to as the writ petitioner).

2.The writ petitioner graduated out of Government Engineering College, Thrissur with a degree in B.Tech (Mechanical Engineering). BPCL selected the writ petitioner for appointment as Officer Trainee in the campus interview held on 28.04.1999. Appointment order was issued on 13.07.1999. The writ petitioner reported for induction / initial training on 09.08.1999. His services were confirmed on 01.08.2000. He was promoted as Area Manager in the year 2006. He was posted as Territory Coordinator(Retail), Trichy in the year 2017.



3. After the writ petitioner had served the appellant Corporation for close to two decades, he was issued with show cause notice dated 12.02.2018. The show cause notice itself was an outcome of a vigilance enquiry conducted earlier. The management charged the writ petitioner that he had deliberately concealed the information regarding the manner in which he acquired the educational qualification. According to the management, only those who had cleared their examinations in the first attempt were eligible to be appointed as Officer Trainees and that with full knowledge of this requirement, the writ petitioner had suppressed the fact that he did not clear VI and VII semester examinations in the first attempt. The writ petitioner offered his explanation vide letter dated 16.02.2018 denying the allegations made against him. According to the writ petitioner, there was no suppression on his part and that the management appointed him with full knowledge of the relevant facts. Not satisfied with the writ petitioner's explanation, charge sheet dated 23.04.2019 was issued.

4. The writ petitioner was charged with giving false information regarding qualification germane to the employment at the time of entering the service. It was alleged that the writ petitioner did not disclose information that he had cleared four papers of VI Semester and two papers of VII semester only by writing supplementary examinations



in January 1999, June 1999 and July 1999. This fact was not disclosed by the writ petitioner even while giving an undertaking on 09.08.1999.

5.The writ petitioner submitted his defence statement vide letter dated 21.05.2019. The disciplinary authority appointed Shri.M.P.Singh as the enquiry officer. The enquiry officer, after conducting enquiry, submitted his enquiry report dated 27.11.2019 holding that the charge formulated against the writ petitioner stood proved. Copy of the enquiry report was furnished to the writ petitioner and he offered his further representation to the disciplinary authority. The appellate authority vide order dated 14.10.2020 inflicted the punishment of removal from service on the writ petitioner. Aggrieved by the same, the respondent herein filed W.P.(MD)No.16452 of 2020. The learned single Judge vide order dated 12.01.2023 set aside the order impugned in the writ petition and allowed the writ petition as prayed for. Challenging the same, the management filed this writ appeal.

6.The learned Senior counsel appearing for the management reiterated all the contentions set out in the grounds of appeal. He contended that the learned single Judge had exceeded the jurisdiction conferred on the writ Court. According to him, the writ Court had assumed the role of a fact-finder. He submitted that when the delinquent



had been given adequate opportunity to defend himself and the procedure adopted by the management has been scrupulously fair, there was no scope for interference in exercise of the power of judicial review. His pointed argument was that the writ petitioner had indulged in an act of deception while joining the service of the Corporation. This fact came to light after a lapse of several years and therefore, the delay in taking action stood explained. He called upon this Court to construe the offer letters from a holistic perspective. From a reading of the contents of the appointment order as well as the communication sent to the college management in the wake of campus interview, one can come to the definite inference that the appellant Corporation wanted to induct only those meritorious students who had cleared the examinations in their first attempt itself. If there is any ambiguity as to qualification of the students to take part in the campus interview for being inducted as Officer Trainee in the appellant Corporation, the writ Court should go by the interpretation of the employer. Relying on the decisions reported in **(2013) 6 SCC 602 (S.R.Tewari V. Union of India)** and **(2007) 4 SCC 54 (Ashok Kumar Sonkar V. Union of India)**, he called upon this Court to set aside the order of the learned single Judge and dismiss the writ petition.

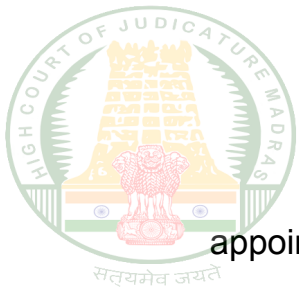


7.Per contra, the learned Senior Counsel appearing for the writ petitioner submitted that the order of the learned single Judge is well reasoned and that it does not call for interference. He relied on the decisions of the Hon'ble Supreme Court reported in (1993) 3 SCC 591 (Dr.M.S.Mudhol and anr v. S.D..Halegkar and ors and (2016) 12 SCC 342 (MD.Zamil Ahemd v. State of Bihar).

8.We carefully considered the rival contentions and went through the materials on record.

9.We do concur with the submission of the learned Senior Counsel for the appellant Corporation that the management has scrupulously complied with the principles of natural justice while conducting enquiry. However, the issue does not really turn on the manner in which the enquiry was conducted. This is because the basic facts are not in dispute. The only question that calls for consideration is whether the writ petitioner gave false information regarding his educational qualification at the time of his joining service.

10.Whether the writ petitioner gave false information or not will have to be determined only in terms of Clause 5(a) of the order of appointment dated 13.07.1999. Even according to the communication dated 28.04.1999 sent by the Corporation to the Principal, Government Engineering College, Thrissur, provisional selection of 11 candidates for



appointment as Officer Trainees was subject to the following three conditions:-

“i) their passing the **final examination** in the first attempt itself,

ii) their being declared passed in the Programme / Degree examination with first class or with 60% marks as per the norms of the University / Institution / Deemed University as the case may be (relaxed to second class with a minimum of 50% marks for SC/ST candidates);

iii) their being declared medically fit as per the Corporation norms, by a Company Medical Officer or Company nominated Doctor.”

11. There is no dispute that the writ petitioner had fulfilled the conditions 2 and 3. The only question that calls for consideration is whether the writ petitioner had passed the final examination in the first attempt itself. The key lies in the expression “**final examination**”. The learned Senior Counsel for the appellant Corporation would claim that what is meant is that the appellant should have cleared all the examinations in all semesters of the degree course in the first attempt itself. He also argued that as per the terms of the appointment order, the writ petitioner must have obtained the final degree before the conclusion of the academic year 1998-99 which according to him ended on 01.06.1999. We are of the view that the issue has to be resolved on the basis of the plain meaning of the terms found in the relevant



communications and one ought not to broaden their scope. The letter dated 28.04.1999 sent by the appellant Corporation to the college Principal as well as the appointment order dated 13.07.1999 issued by the appellant employed the expression “**final degree examination of the current academic year**”. There is no stipulation that the degree itself must have been obtained before the conclusion of the academic year. What was required was only a pass in the final degree examination of the relevant academic year. The expression “of ” cannot be lost sight of. In the typed set of papers, a copy of the Certificate of Course and Conduct issued by the college on 17.07.1999 had been enclosed. It is extracted as follows:-

ANNX-V
165

GOVERNMENT OF KERALA
DEPARTMENT OF TECHNICAL EDUCATION
GOVERNMENT ENGINEERING COLLEGE
TRICHUR -9

No. 7089/59 Date 17.7.59

CERTIFICATE OF COURSE AND CONDUCT

This is to certify that SH. KUNAN. DAKSHINAM
was a student of this college from 1995
to 1999. He/She has completed the
prescribed course of study for B. Tech. Degree in M.E.C. HANICAH
Engineering and has appeared for the
Final Year Examination in Engineering conducted by the University of Calicut in
JUNE 1999
His/Her conduct and character during the period were GOOD



Principal
GOVT. ENGG. COLLEGE
TRICHUR -9

D. K. L.



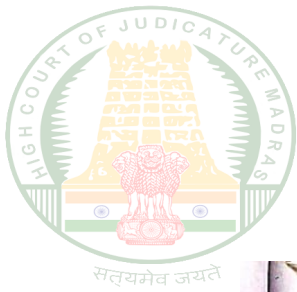
WEB COPY

12.It can be seen from the above certificate that the writ petitioner was a student of the college from 1995 till 1999 and that he had completed the prescribed course of study for B.Tech. Degree in Mechanical Engineering and that he had appeared for the **final year examination** in Engineering conducted by the University of Calicut in **June 1999**. This in our view clinches the issue. When the question that has arisen for consideration is what meaning should be ascribed to the expression “final examination”, it is not the stand of the employer but the stand of the academic institution that will be determinative. This is more so because in their official communication as well as the letter of appointment, the appellant corporation has not assigned any special meaning. According to the Government Engineering College, final year examination in Engineering in the instant case was held in June 1999. Admittedly, the writ petitioner passed the same in the first attempt itself. That he cleared the supplementary examinations in respect of the previous semesters in July 1999 is of no consequence since in the appointment letter, there is reference only to the final degree examination. When the offer letter does not talk about the previous semesters, it would not be open to the appellant corporation to bring them in subsequently.



13. We hold that the writ petitioner cannot be accused of having furnished any false information or suppressed deliberately any relevant information regarding his educational qualifications at the time of joining service in the appellant Corporation.

14. The issue can be approached from another perspective also. The disciplinary action against the writ petitioner was initiated only in the year 2018. The stand of the writ petitioner was that he was inducted as Officer Trainee with full knowledge about his academic performance. The interview was held in April 1999. Obviously, by then the results of the VII semester would not have been declared. But definitely the results of all the previous semesters would have been declared. It is quite probable that the person who conducted campus interview would have verified the mark statements of the previous semesters. Probably, they did not attach much importance because even as per the recruitment norms, a candidate was expected to only pass the final examination in the first attempt. Admittedly, at the time of joining service, the writ petitioner had submitted the mark sheet issued by the University of Calicut. He had also furnished the final degree certificate. They have been enclosed at pages 103 and 169 of the typed set of papers respectively filed by the appellant Corporation. They read as follows:-



WEB COPY

11

W.A.(MD)No.909 of 2023



UNIVERSITY OF CALICUT



Case No. 909 of 2023

Date: 24.11.2023

MEMORANDUM

The following marks were awarded to him/her at the Eighth Semester Examination in B.Tech. (Engineering) Degree Course.

Branch -- MECHANICAL ENGINEERING

Reg. No. Month & Year	Group	Subject	Marks awarded		Maximum Marks		Result
			Written	Sessional	Written	Sessional	
10450 June 99	ME 801	Compressible Fluid Flow	40	37	100	50	
	ME 802	Operations Research	57	45	100	50	
	ME 803	Thermal Engineering III	49	42	100	50	
	ME 804	Modern Manufacturing Systems	56	40	100	50	
	ME 805	Elective MATERIALS METALLURGY	62	46	100	50	
Practicals							
	ME 806	Project		88	-	100	Passed
	ME 807	Seminar		42	-	50	
	ME 808	Viva-Voce	80		100	-	
	Total of VIII Semester		344	340	600	400	
Carry over Marks							
	Total of I and II Semester		557	478	1000	650	
	Semester III		383	263	700	350	
	IV		342	277	700	350	
	V		401	294	700	350	
3309 June 99	VI		397	315	700	350	
ME 705 Elective	VII		285	257	600	300	
	Grand Total		2709	2224	15000	7750	

Pass minimum in a subject is 50% of marks at the University Examination or 40% marks at the University Examination and an aggregate minimum of 50% in the University Examination marks plus sessional marks.

Pass minimum in a subject is 50% of marks at the University Examination or 40% marks at the University Examination and an aggregate minimum of 50% in the University Examination marks plus sessional marks.

To, Name of the College: GEC Thrissur

Shri/Smt. Dax Mohan

Marks entered by: [Signature]

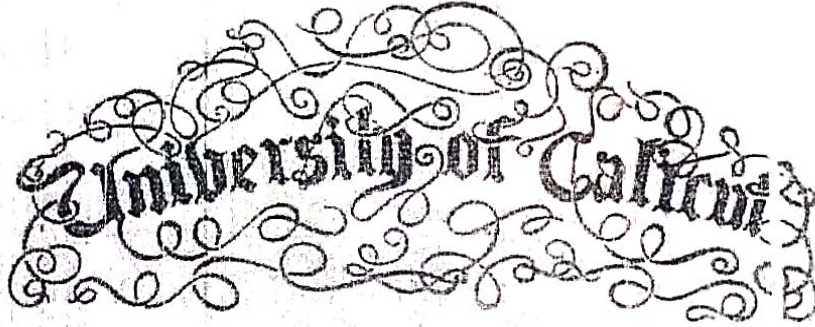
Marks checked by: [Signature]

CUP/165F/98/100Fx20

CONTROLLER OF EXAMINATIONS

Section Officer

A.R./D.R.(Exams.)



FACULTY OF ENGINEERING

Whereas it has been certified by duly appointed Examiners that

Dax Mohan

Is qualified to receive the Degree of Bachelor of Technology in Engineering (B. Tech.)

In Branch.....Mechanical Engineering.....

he/she having been placed in.....First Class.....at the Examination

held in.....June 1999.....(Reg. No.10250 VIII 57)
July 1999.....8627 VII 57.....

The Senate of the University of Calicut hereby confers on him/her the Degree of

Bachelor of Technology in Engineering

with all the Rights, Privileges and Honours thereunto appertaining.

Given under the seal of the University.



CALICUT UNIVERSITY
673 635

Date 28-04-2009

M. K. P. J.
VICE-CHANCELLOR

D. Mohan



A bare look at the aforesaid mark statement and the degree certificate indicates that the writ petitioner passed VI semester examinations in June 1999 and VII semester examinations in July 1999. This itself indicates that the writ petitioner had not passed the said two semesters in the first attempt. The degree certificate issued by the University of Calicut dated 24.11.1999 also states that the writ petitioner is qualified to receive degree and that he was placed in I class in the examination held in June 1999 and July 1999. It reads that the writ petitioner cleared VIII semester examinations in June 1999 and VII semester examinations in July 1999. It is too much to argue at this point of time that these materials were overlooked. The appellant management must be taken to have confirmed the writ petitioner's services with full knowledge of his academic track record. That the writ petitioner had taken supplementary examinations is a fact that is evident to the naked eye. It does not require an inferential process of reasoning.

15.The learned Senior counsel appearing for the appellant argued that the writ petitioner withheld the information that he cleared VI semester and VII semester only in the supplementary examinations when he submitted letter of undertaking dated 09.08.1999. We carefully went through the contents of the said undertaking letter. It is in a prescribed format. All that the writ petitioner had undertaken was that he



was not able to produce necessary certificates / mark sheets of his having passed the degree examination in I class and that he would submit the same in letter. The aforesaid mark statement as well as the degree certificates had been submitted only in terms of the said undertaking. We would not draw any adverse inference against the writ petitioner in this regard.

16. There is no definite disqualification clause in any official communication or the appointment order to the effect that if a student had not cleared any of the examinations in any semester in the first attempt, then he can't be selected as an Officer Trainee. The only stipulation was that the appointee must have passed the final degree examination in the first attempt. The writ petitioner had fulfilled the said requirement.

17. The writ petitioner can be charged with having furnished false information or withheld relevant information only if there was a definite duty cast on him in the first place. The appellant Corporation has not been able to establish that the writ petitioner was obliged to inform the appellant about his performance in the previous semesters. The appellant corporation cannot enlarge the contours of the writ petitioner's obligation beyond the express terms of the call letter/appointment order.



WEB COPY

18. For the foregoing reasons, we have to hold that the very issuance of charge memo was bad in law. The finding of the enquiry officer that the writ petitioner committed misconduct is perverse. The enquiry officer had assumed a duty of disclosure when there was none. The only requirement was that the writ petitioner should clear the final degree examination in the first attempt. From the certificates issued by the University, one can conclude that the final degree examination means the VIII semester examination held in June 1999. Admittedly, the writ petitioner passed the VIII semester examination in the first attempt. The employer has misread the terms of the appointment order. We may add that the persons who conducted campus interview or who dealt with the writ petitioner at the time of induction were not examined as witnesses. We are therefore of the view that the writ petitioner cannot be accused of any blameworthy conduct. When the writ petitioner cannot be said to be guilty of any misconduct, the writ court was justified in interfering in his favour.

19. The Hon'ble Supreme Court in the decision reported in **(2009) 1 SCC 768 (Tridip Kumar Dingal V. State of W.B.)** held that even if the appointment is held to be improper, the Court would not disturb the appointments since the incumbents had worked for several years and



had gained good experience. The writ petitioner did not produce any fake or bogus document. He had not made any misrepresentation. On the other hand, he placed all the cards on the table. We therefore hold that the appellant was not justified in initiating the impugned action that too after a lapse of close to twenty years.

20. We decline to interfere with the order of the learned Single Judge. This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S, J.) & (K.R.S, J.)
16th July 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU



WEB COPY



17

W.A.(MD)No.909 of 2023

G.R.SWAMINATHAN,J.

AND

K.RAJASEKAR, J.

PMU

W.A.(MD)No.909 of 2023

16.07.2025