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**(2024) 04 TEL CK 0042**

**High Court For The State Of Telangana:: At Hyderabad**

**Case No:** Writ Petition No. 8259, 8330, 8334 Of 2023

Rayipudi Venkata Krishna

APPELLANT

Vs

Cotton Corporation Of India Ltd.

RESPONDENT

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**Date of Decision:** April 26, 2024

**Hon'ble Judges:** T. Madhavi Devi, J

**Bench:** Single Bench

**Final Decision:** Disposed Of

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### **Judgement**

#### **W.P.No.8259 of 2023**

1. In W.P.No.8259 of 2023, the petitioner is seeking a Writ of Mandamus declaring the order of termination of his services as Junior Cotton Purchaser vide Order No.CCI/HO/HRD/2022-23/1177 dt.10.03.2023 without considering the experience certificate and the affidavit filed by the 5th respondent, as illegal, arbitrary and unconstitutional and in violation of principles of natural justice and consequently to set aside the termination order and to pass such other order or orders.

2. Brief facts leading to the filing of W.P.No.8259 of 2023 are that the petitioner has allegedly completed his MCA in the year 2008 from Rajya Lakshmi Engineering College, Chennai which is affiliated to Anna University, Chennai and after completing graduation, the petitioner allegedly underwent some coaching on computer languages also to pursue a job. The petitioner claims to have worked with the 5th respondent from 11.10.2010 to 23.10.2012, and again from 21.07.2013 to 08.10.2014, i.e., for a total period of 3 years 2 months and his services were utilised in supervising, purchasing and processing of cotton including ginning and pressing. In the intervening period, when he was not working with the 5th respondent in the year 2012, he got an opportunity to work as a temporary Field Assistant in the CCI Branch Office, Adilabad for a period of six months, i.e., from 01.12.2012 to 22.05.2013. It is submitted that in the year 2014, CCI (Cotton Corporation of India Limited) had issued a Notification for the post of Junior Cotton Purchaser and the petitioner applied for the same on 10.10.2014 and after several rounds of tests and

interviews and after perusal of the required documents, the petitioner was finally selected and given appointment letter dt.03.03.2015. It is submitted that the petitioner joined the said job on 16.03.2015 and continued to serve the organisation. However, on 14.12.2016, the 2nd respondent issued a show-cause notice to the petitioner alleging that he has secured employment by indulging in fraudulent means with regard to his experience with the previous employer and thus the appointment is void ab initio. Aggrieved, the petitioner and others filed W.P.No.46015 of 2016 before this Court and initially this Court granted interim stay of the show-cause notice and ultimately by final orders dt.07.11.2022, the petitioners were directed to submit their explanation to the impugned show-cause notice and the respondents were directed to consider the same without going into the delay aspect in submitting the reply and determine the case of the petitioner within a reasonable period preferably within eight weeks from the date of receipt of a copy of the order. The respondents were directed to take into consideration the explanation of the petitioners uninfluenced by any of the observations made in the order. Thereafter, the petitioner herein submitted his reply to the show-cause notice on 09.01.2023, and it is alleged that without considering the same in proper perspective, the impugned termination order has been passed.

3. The allegation is that the 3rd respondent has passed the termination order dt.10.03.2023 on the ground that on verification of the explanation filed by the petitioner, it was found that in the affidavit submitted by the Proprietor of M/s. Sree Mahalakshmi Cotton Traders (the 5th respondent), it was stated that in 2015, the CCI Vigilance Officer has approached him as part of enquiry for information about the petitioner and at that time, he had submitted the following documents: attendance register, salary slips, ledger accounts and profit and loss accounts of the business concern in which the petitioner claims to have worked. But on verification, it was found that they were never supplied by him to the Vigilance Officer at the time of verification or re-verification. Therefore, it was held that the documents allegedly provided by M/s. Sree Mahalakshmi Cotton Traders in support of the employment of the petitioner cannot be considered as the said documents lacked authenticity and cannot be relied upon. Challenging the said termination order, W.P.No.8259 of 2023 has been filed.

4. This Court has not granted any interim order. The respondents 1 to 3 have filed their counter affidavit in support of the impugned order of termination. During the course of arguments, while reiterating the submissions made in the writ affidavit and also the counter affidavit, the respective parties have placed reliance upon the following judgments.

5. The judgments relied upon by the petitioner are as under:

(1) Samsher Singh Vs. State of Punjab and another (1974) 2 SCC 831.

(2) Radhey Shyam Gupta Vs. U.P. State Agro Industries Corporation Ltd. and another (1992) 2 SCC 21.

(3) State Bank of India and others Vs. Palak Modi and another (2013) 3 SCC 607.

(4) The Commandant, 8th Bn TSSP, Kondapur, Ranga Reddy District and others Vs. The Venkata Sai Krishna and another 2016 SCC OnLine Hyd 150.

(5) Dineshbhai Dhudabhai Patel Vs. State of Gujarat R/Special Civil Application No.11518 of 2020 dt.07.02.2022 : C/SCA/11518/2020.

(6) Manohar S/o Manikrao Anchule Vs. State of Maharashtra and another (2012) 13 SCC 14.

(7) Bishan Lal Gupta Vs. The State of Haryana and others (1978) 1 SCC 202.

6. The judgments relied upon by the respondents are as under:

(1) The Cotton Corporation of India Ltd. and another Vs. Vignesh S. Civil Appeal No.6985 of 2021 dt.22.11.2021

(2) J.S. Ravi Kumar Vs. The Cotton Corporation of India Limited and others Review petition (Civil) No.10 of 2022 in Civil Appeal No.6986 of 2021 dt.27.01.2022.

(3) Gaurav W. Watane Vs. Cotton Corporation of India Ltd. and others Special Leave to Appeal (C) No.8722 of 2018 dt.16.04.2018.

(4) Shri Gaurav W. Watane Vs. The Cotton Corporation of India Limited and others Writ Petition (L) No.3137 of 2016 of Bombay High Court dt.08.12.2016.

(5) Shri Amar Jalindar Yamgar Vs. The Cotton Corporation of India Ltd. and others Writ Petition (L) No.3134 of 2016 dt.08.12.2016.

(6) The Cotton Corporation of India Limited and another Vs. Janardhan Gopal Panchal W.A.Nos.240, 242, 243, 275, 279 and 911 of 2017 dt.21.03.2022.

(7) Ram Kishan Khoiwal Vs. Cotton Corporation of India Limited R/Letters Patent Appeal No.1470 of 2018 in R/Special Civil Application No.16117 of 2016 dt.27.02.2023.

(8) Praveen Kumar Jain, S/o Shri Om Prakash Jain Vs. The Cotton Corporation of India Limited and another S.B. Civil Writ Petition No.15006 of 2016 dt.05.05.2017.

(9) Avtar Singh Vs. Union of India and others (2016) 8 SCC 471.

(10) Union of India and others Vs. M.Bhaskaran 1995 Supp (4) SCC 100.

(11) Chandrashekhar Vs. State of Maharashtra 2016(6) AIR Bom.R 585

7. Having regard to the rival contentions and the material on record, this Court finds that the services of the petitioner have been terminated solely on the ground that he has failed to produce the relevant documents to establish genuineness of his

experience certificates and therefore, it was established that the petitioner has secured employment in the Corporation by indulging in fraudulent means and has produced false experience certificates violating the Cotton Corporation of India (Conduct, Discipline & Appeal), 1975 and therefore, his employment in the Corporation has become ab initio void. The petitioner in W.P.No.8259 of 2023 has allegedly submitted the experience certificate issued by M/s. Sree Mahalakshmi Cotton Traders.

8. The petitioner, consequent to the direction of this Court in the earlier round of litigation, submitted his detailed explanation as to how the provisions of the professional tax and provident fund are not applicable to his case. It was submitted that since the proprietary concern did not have more than 10 employees, the provisions of professional tax and provident fund were not applicable. Along with the explanation, the petitioner had also submitted various documents including the copies of salary slips and the ledger accounts of M/s. Sree Mahalakshmi Cotton Traders pertaining to his salaries for the financial years 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 and also the profit and loss accounts. This Court, after going through the relevant documents, finds that the said concern, i.e., the 5th respondent has filed income tax return for the relevant assessment year, i.e., for 2011-12 on 18.09.2011 and that the said concern has also filed its returns of income for the assessment years 2012-13, 2013-14 and 2014-15 also within the due date for filing of the return for the relevant assessment year and in the profit and loss accounts of the relevant years, the salaries paid to its employees are reflected and in the salaries account, the name of the petitioner and also the amount paid to him are mentioned. These are all statutory documents which are filed by the concern, i.e., the 5th respondent before the Income Tax Department. The respondents 1 to 4 (CCI) would have to verify whether the salaries accounts as claimed by the petitioner have been filed along with the return of income and if it were filed, then the claim of the petitioner cannot be doubted. As seen from the cash vouchers and also the attendance register, the signatures of the petitioner are not available in the attendance register and the handwriting on all the vouchers seem to be same and voucher numbers are not available. Therefore, weightage may not be given to these documents, but the income tax returns and the mention of the petitioner's name in the accounts would definitely prove if the petitioner has worked with the said company and whether the experience certificates are genuine.

9. The judgments relied upon by the petitioner are all on the issue as to whether an enquiry can be conducted behind the back of the delinquent employee when the delinquent employee is terminated from service on the basis of such enquiry and it was held to be in clear violation of principles of natural justice. In view of the fact that the matter is being now remanded back to the file of the disciplinary authority of respondents 1 to 4 (CCI), this Court deems it fit and proper to direct the respondents 1 to 4 (CCI) to afford a fair opportunity of hearing to the petitioner and also an opportunity of cross-examining the witnesses by the petitioner, if any,

before taking any decision in the matter.

10. Therefore, in view of the above facts, this Court is of the opinion that the respondents 1 to 4 (CCI) ought to have verified the documents filed by the 5th respondent and thereafter ought to have taken a decision instead of rejecting the same on the ground that it is an afterthought. In view of the same, the impugned order dt.10.03.2023 is set aside with a direction to the respondents 1 to 4 (CCI) to reconsider the explanation of the petitioner after verifying the statutory documents particularly the income tax returns and the documents uploaded along with the income tax returns by the 5th respondent and if the respondents 1 to 4 (CCI) are satisfied about the experience of the petitioner, then suitable action shall be taken by them. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

11. With these observations, the W.P.No.8259 of 2023 is disposed of.

**W.P.Nos.8330 and 8334 of 2023**

12. Since the facts the case in the other two Writ Petitions, i.e., W.P.Nos.8330 and 8334 of 2023 are also similar, similar directions as issued in W.P.No.8259 of 2023 are issued setting aside the impugned orders therein and directing the respondents to reconsider the explanation of the petitioners therein after verifying the income tax returns of their erstwhile employers and if it is found that the experience certificates submitted by the petitioners in W.P.Nos.8330 of 8334 of 2023 are genuine, then the respondents in W.P.Nos.8330 and 8334 of 2023 also shall take appropriate action accordingly. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

13. W.P.Nos.8330 and 8334 of 2023 are also disposed of accordingly. No order as to costs.

14. In the result,

(i) W.P.No.8259 of 2023 is disposed of. No order as to costs.

(ii) W.P. No.8330 of 2023 is disposed of. No order as to costs.

(iii) W.P.No.8334 of 2023 is disposed of. No order as to costs.

15. Pending miscellaneous petitions, if any, in all these Writ Petitions shall stand closed.