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Sandeep Kumar Vs Union of India

Writ - A No.-34013 of 2013

Court: Allahabad High Court

Date of Decision: Sept. 17, 2014

Acts Referred:
Constitution of India, 1950 â€" Article 226, 32

Citation: (2014) 10 ADJ 303

Hon'ble Judges: Suneet Kumar, J

Bench: Single Bench

Advocate: Tej Veer Singh, Amit Kumar Chaudhary and Shiv Kant Pandey, Advocate for the Appellant; Piyush Bhargava, S.C, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Suneet Kumar, J.
Heard Sri Amit Kumar Chaudhary, learned counsel appearing for petitioner and Sri Piyush Bhargava, learned counsel

appearing for the respondents.

2. The petitioner having diploma in electrical engineering applied for the post of Diploma Trainer (electrical) in Power Grid Corporation of India

Limited (herein after referred to as "Corporation"), after qualifying the written test and interview, was appointed on 30.6.2009. According to the

contract of appointment, one year was provided for probation as diploma trainee (electrical) and on successfully completing the training petitioner

was appointed on 3.8.2009 as Junior Engineer Grade IV, as a general category candidate and posted at Mainpuri, vide office order dated

13.8.2010, the petitioner was given pay-scale of 7300-12660. On 11.6.2013, the respondent no. 3 Chief Manager (Human Resources), New

Delhi, communicated the termination of the service of the petitioner. The petitioner is assailing the order dated 11.6.2013 in the writ petition.

3. The reason for termination assigned by the respondents in the counter affidavit is that the petitioner obtained appointment by misrepresenting that

he belonged to "Jat" community falling under the other backward class (OBC) category. On the relevant date "Jat" community was not included in

the OBC category under the Union or the Organization/Corporations run and managed by the Union Government or its departments, thus, the

petitioner was selected under the O.B.C. category and not under the general category, had the petitioner not misrepresented, the petitioner would

not qualify to be selected on the post.

4. Submission of the learned counsel for the petitioner is that the termination order is a non-speaking order and as per the terms and conditions of

the contract petitioner should have been given three months notice, being a confirmed employee, further the order violates the principles of natural

justice, as no opportunity of hearing was given to the petitioner. The impugned order has not been passed by the competent authority but by a

subordinate authority. The respondents had always treated the petitioner as a candidate belonging to the general category, as they had full

knowledge that in spite of the petitioner declaring that he belongs to the "Jat" community, the corporation selected the petitioner treating him as a

general candidate and hence there was no misrepresentation on the part of the petitioner. After four years of continuous service and having an

unblemished career record, the respondents are estopped from raising the issue at a belated stage. The learned counsel for the petitioner has cited

large number of judgments in support of his submissions, which includes the following-- Manjula Sircar and Others Vs. Harendra Bahadur Singh

and Others, , Samsher Singh Vs. State of Punjab and Another, A.P. Public Service Commission vs. Koneti Vekateswarulu and others 2005 LAB.

I.C. 3610, Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others, The Manager, Government Branch Press and Another

Vs. D.B. Belliappa,

5. In rebuttal Sri Bhargava submits that the petitioner had declared, in his application form, that he belongs to "Jat" Caste/community in O.B.C.

Category. The petitioner was appointed under the O.B.C. category and not under the general category, was given benefits, as is available to a

candidate belonging to the reserve (OBC) category. The petitioner after successfully completing diploma training (electrical) was placed as Junior

Engineer Grade IV on probation, the appointment of the petitioner on probation was provisional, subject to verification of the backward caste

certificate by the competent authority. The corporation is a Public Sector Undertaking under the Central Government, as such, reservation policy

applicable to the Central Government is applicable upon the corporation and not the reservation policy of the State Government.

6. On verification of the caste certificate from the concerned District Authority it was informed that the "Jat" caste/community did not fall under the

O.B.C. category under the Central Government, hence, the petitioner obtained the benefit of a reserve category candidate on misrepresentation by

making a false declaration in the application form. The petitioner was never confirmed and was terminated by the corporation on 11.6.2013 by

invoking Clause 7 and 17(f) of the terms and conditions of the appointment letter.

7. Rival submissions fall for consideration.

Natural Justice:

8. A court of law does not insist on compliance of useless formality. It will not issue any direction where the result would remain the same, in view

of the fact situation prevailing or in terms of the legal consequences. Furthermore in this case, the selection of the appellant was on

misrepresentation. He did not belong to the O.B.C. category on the cut off date, thus, being ineligible to be considered for appointment, under the

OBC category, it would have been a futile exercise to give him an opportunity of being heard.

9. In Aligarh Muslim University and Others Vs. Mansoor Ali Khan, the law is stated in the following terms:

25. The useless formality theory, it must be noted, is an exception. Apart from the class of cases of admitted or indisputable facts leading only to

one conclusion referred to above, there has been considerable debate on the application of that theory in other cases. The divergent views

expressed in regard to this theory have been elaborately considered by this Court in M.C. Mehta referred to above. This Court surveyed the views

expressed in various judgments in England by Lord Reid, Lord Wilberforce, Lord Woolf, Lord Bingham, Megarry, J. and Straughton, L.J. etc. in

various cases and also views expressed by leading writers like Profs. Garner, Craig, de Smith, Wade, D.H. Clark etc. Some of them have said

that orders passed in violation must always be quashed for otherwise the court will be prejudging the issue. Some others have said that there is no

such absolute rule and prejudice must be shown. Yet, some others have applied via media rules. We do not think it necessary in this case to go

deeper into these issues. In the ultimate analysis, it may depend on the facts of a particular case.

10. In Karnataka State Road Transport Corporation and Another Vs. S.G. Kotturappa and Another, this Court held:

The question as to what extent, principles of natural justice are required to be complied which would depend upon the fact situation obtaining in

each case. The principles of natural justice cannot be applied in vacuum. They cannot be put in any straitjacket formula. The principles of natural

justice are furthermore not required to be complied with when it will lead to an empty formality. What is needed for the employer in a case of this

nature is to apply the objective criteria for arriving at the subjective satisfaction. If the criteria required for arriving at an objective satisfaction stands

fulfilled, the principles of natural justice may not have to be complied with, in view of the fact that the same stood complied with before imposing

punishments upon the respondents on each occasion and, thus, the respondents, therefore, could not have improved their stand even if a further

opportunity was given

11. In Punjab National Bank and Others Vs. Manjeet Singh and Another, this Court opined:

The principles of natural justice were also not required to be complied with as the same would have been an empty formality. The court will not

insist on compliance with the principles of natural justice in view of the binding nature of the award. Their application would be limited to a situation

where the factual position or legal implication arising thereunder is disputed and not where it is not in dispute or cannot be disputed. If only one

conclusion is possible, a writ would not issue only because there was a violation of the principle of natural justice.

12. In P.D. Agrawal Vs. State Bank of India and Others, this Court observed:

30. ""The Principles of natural justice cannot be put in a straight jacket formula. It must be seen in circumstantial flexibility. It has separate facets. It

has in recent time also undergone a sea change.

13. It was further observed:

39. ""Decision of this Court in Juwarsingh and Others Vs. State of Madhya Pradesh, whereupon Mr. Rao placed strong reliance to contend that

non-observance of principle of natural justice itself causes prejudice or the same should not be read ""as it causes difficulty of prejudice"", cannot be

said to be applicable in the instant case. The principles of natural justice, as noticed hereinbefore, has undergone a sea change. In view of the

decision of this Court in State Bank of Patiala and others Vs. S.K. Sharma, and Rajendra Singh Vs. State of Madhya Pradesh and others, the

principle of law is that some real prejudice must have been caused to the complainant. The Court has shifted from its earlier concept that even a

small violation shall result in the order being rendered a nullity. To the principal doctrine of audi alteram partem, a clear distinction has been laid

down between the cases where there was no hearing at all and the cases where there was mere technical infringement of the principal. The Court

applies the principles of natural justice having regard to the fact situation obtaining in each case. It is not applied in a vacuum without reference to

the relevant facts and circumstances of the case. It is no unruly horse. It cannot be put in a straightjacket formula. [See Viveka Nand Sethi Vs.

Chairman, J and K Bank Ltd. and Others, and State of U.P. Vs. Neeraj Awasthi and Others, See also Mohd. Sartaj and Another Vs. State of

U.P. and Others,

14. The principles of equity in a case of this nature, in my opinion, will have no role to play. Sympathy, as is well-known, should not be misplaced.

15. Supreme Court in the case of Raj Kumar Soni and Another Vs. State of U.P. and Another, observed that even if there was any technical

violation of the rules of natural justice, this is not a fit case for interference, as such interference would result in resurrection of an illegal, nay, void

order. Para 16 and 17 is as follows:-

16. In Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others, a Primary Health Centre was formerly inaugurated at a

particular village subject to certain conditions. Since those conditions are not satisfied, the Panchayat Samithi resolved to shift it to another village.

The Government, in exercise of its review jurisdiction, interfered with the resolution so passed by the Panchayat Samithi without providing any

opportunity whatsoever to the Panchayat Samithi. The government''s order was challenged in a proceeding under Article 226 of the Constitution of

India. The A.P. High Court held, the order passed by the Government on the review to be bad, but did not interfere on merits. The Supreme

Court, while confirming the order of the High Court observed that:

if the High Court had quashed the said order, it would have restored an illegal order; it would have given the Health Centre to a village, contrary

to the valid resolutions passed by the Panchayat Samithi.

In M.C. Mehta vs. Union of India, this Court, relying upon Venkateshwara Rao (supra) observed;

The above case is clear authority for the proposition that it is not always necessary for the Court to strike down an order merely because the

order has been passed against the petitioner in breach of natural justice. The Court can under Article 32 of Article 226 refuse to exercise its

discretion of striking down the order if such striking down will result in restoration of another order passed earlier in favour of the petitioner and

against the opposite party, in violation of principles of natural justice or is otherwise not in accordance with law.

Confirmation/Deemed Confirmation:

16. Supreme Court in the case of Raj Kumar Yadav Vs. The State of Uttar Pradesh, held as follows:-

24. The law on the issue is well settled that the question of deemed confirmation would arise provided there is a complete embargo to extend the

period of probation. If an employee is not confirmed by specific order of confirmation, he shall not be deemed to have been confirmed

automatically. This law has been laid down by a Constitution Bench of the Hon''ble Supreme Court in The State of Punjab vs. Dharam Singh.

17. In Dayaram Dayal Vs. State of M.P. and another [OVERRULED], , a similar view has been reiterated observing that the deemed

confirmation of a probationer depends on the order of appointment and the rules applicable in the case of said employee. Mere continuance in

service of an employee beyond the maximum period up to which the probation period could be extended, shall not give entitlement to him to have

been deemed confirmed. While decide the said case, the Hon''ble Supreme Court considered its earlier judgment in Sukhbans Singh vs. State of

Punjab, wherein it was held as under:-

A probationer cannot.....automatically acquire the status of a permanent member of a service, unless of course the rules under which he is

appointed expressly provide for such a result. The rules governing the Provincial Civil Services of Punjab do not contain any provision whereby a

probation at the end of the probationary period is automatically absorbed as a permanent member of the Civil Service.

False Declaration:

18. The Supreme Court in the case of A.P. Public Service Commission Vs. Koneti Venkateswarulu and Others, held as follows:-

8. We are unable to accept the contention of the learned counsel for the First Respondent. As to the purpose for which the information is called,

the employer is the ultimate judge. It is not open to the candidate to sit in judgment about the relevance of the information called for and decide to

supply it or not. There is no doubt that the application called for full employment particulars vide Column 11. Similarly, Annexure III contained an

express declaration of not working in any public or private employment. We are also unable to accept the contention that it was inadvertence

which led the First Respondent to leave the particulars in Column 11 blank and make the declaration of non-employment in Annexure III to the

application. The application was filled on 24.7.1999, the examination was held on 24.10.1999, and the interview call was given on 31.1.2000. At

no point of time did the First Respondent inform the appellant commission that there was a bonafide mistake by him in filling up the application

form, or that there was inadvertence on his part in doing so. It is only when the appellant commission discovered by itself that there was suppresso

veri and suggestio falsi on the part of the First Respondent in the application that the respondent came forward with an excuse that it was due to

inadvertence. That there has been suppresso veri and suggestio falsi is incontrovertible. The explanation that it was irrelevant or emanated from

inadvertence, is unacceptable. In our view, the appellant was justified in relying upon the ratio of Kendriya Vidyalaya Sangathan (supra) and

contending that a person who indulges in such suppresso veri and suggestio falsi and obtains employment by false pretence does not deserve any

public employment. We completely endorse this view.....

Fraud/Misrepresentation

19. ""Fraud"" means an intention to deceive; whether it is from any expectation of advantage to the party himself or from ill will towards the other is

immaterial. The expression ""fraud"" involves two element, deceit and injury to the person deceived. Injury is something other than economic loss,

that is, deprivation of property, whether movable or immovable, or of money and it will include any harm whatever caused to any person in body,

mind, reputation or such others. In short, it is a non-economic or non-pecuniary loss. A benefit or advantage to the deceiver, will almost always

cause loss or detriment to the deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss

to the deceived, the second condition is satisfied. (Vide Dr. Vimla Vs. Delhi Administration, ; and Indian Bank Vs. M/s. Satyam Fibres (India) Pvt.

Ltd.,

Fraud"" as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or words, which

includes the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. It

is also well settled that the misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against

fraud. A fraudulent misrepresentation is called deceit and consists in leading a man into damage by willfully or recklessly causing him to belief and

act on falsehood. It is a fraud in law if a party makes representation, which he knows to be false, and injury ensures there from although the motive

from which the representation proceeded may not have been bad. An act of fraud on Court is always viewed seriously. A collusion or conspiracy

with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are

synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with

fraud cannot be perpetuated or saved by the application of any equitable doctrine including res-judicata. (Vide Ram Chandra Singh Vs. Savitri

Devi and Others,

Fraud is proved when it is shown that a false representation has been made (I) knowingly, or (ii) without belief in its truth, or (iii) recklessly,

careless whether it be true or false"".

20. In Smt. Shrisht Dhawan Vs. M/s. Shaw Brothers, it has been held as under:-

Fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. It is a concept descriptive of human

conduct.

21. In United India Insurance Co. Ltd. Vs. Rajendra Singh and Others, , the Apex Court observed that ""Fraud and justice never dwell together

(fraus et jus nunquam cohabitant) and it is a pristine maxim which has never lost its temper over all these centuries.

22. In Union of India and others Vs. M. Bhaskaran, G. Radhakrishnan and C. Devan, the Apex Court, after placing reliance upon and approving

its earlier judgment in District Collector and Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram and Another Vs.

M. Tripura Sundari Devi, observed as under:-

If by committing fraud any employment is obtained, the same cannot be permitted to be countenanced by a Court of Law as the employment

secured by fraud renders it voidable at the option of the employer

23. Supreme Court in the case of Oswal Fats and Oils Limited Vs. Additional Commissioner (Administration), Bareilly Division, Bareilly and

Others, observed as follows:-

20. It is settled law that a person who approaches the court for grant of relief, equitable or otherwise, is under a solemn obligation to candidly

disclose all the material/important facts which have bearing on the adjudication of the issues raised in the case. In other words, he owes a duty to

the court to bring out all the facts and refrain from concealing/suppressing any material fact within his knowledge or which he could have known by

exercising diligence expected of a person of ordinary prudence. If he is found guilty of concealment of material facts or making an attempt to

pollute the pure stream of justice, the court not only has the right but a duty to deny relief to such person.

24. The observations in A. Shanmugam Vs. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam Represented by Its

President etc., are also apposite holding:-

43.1. It is the bounden duty of the court to uphold the truth and do justice.

43.2. Every litigant is expected to state truth before the law court whether it is pleadings, affidavits or evidence. Dishonest and unscrupulous

litigants have no place in law courts.

43.3. The ultimate object of the judicial proceedings is to discern the truth and do justice. It is imperative that pleadings and all other presentations

before the court should be truthful.

43.4. Once the court discovers falsehood, concealment, distortion, obstruction or confusion in pleadings and documents, the court should in

addition to full restitution impose appropriate costs. The court must ensure that there is no incentive for wrongdoer in the temple of justice. Truth is

the foundation of justice and it has to be the common endeavour of all to uphold the truth and no one should be permitted to pollute the stream of

justice.

43.5. It is the bounden obligation of the court to neutralise any unjust and/or undeserved benefit or advantage obtained by abusing the judicial

process.

25. The presentation of a distorted official document and thereby obtaining advantage from the Court is a contemptuous act as held in Chandra

Shashi Vs. Anil Kumar Verma, Awarding imprisonment it was held:

14. The legal position thus is that if the publication be with intent to deceive the court or one made with an intention to defraud, the same would be

contempt, as it would interfere with administration of justice. It would, in any case, tend to interfere with the same. This would definitely be so if a

fabricated document is filed with the aforesaid mens rea. In the case at hand the fabricated document was apparently to deceive the court; the

intention to defraud is writ large. Anil Kumar is, therefore, guilty of contempt.

26. Applying the law on the facts of the case, the corporation invited applications on 14.1.2009, including 13 posts of diploma trainee (electrical)

of which 8 posts were unreserved (general category) and the remaining 5 posts were reserved out of which two were for O.B.C. category

candidate. The advertisement published the format of the application form in which applications were to be made by the candidates, serial no. 3 of

the application form required the candidate to declare the category, he belongs to. The petitioner declared that he belongs to O.B.C. category

(Code No. 03) and at the bottom of the form, the petitioner signed the declaration that whatever he has enclosed in the application form, is well

known to his personal knowledge and no fact has been suppressed.

27. The petitioner qualified the written test, as well as, the interview and was offered appointment to the post of diploma trainee (electrical) on

30.6.2009. The appointment letter clearly stated that on completion of the training period, suitability for absorption in the regular establishment of

the company will be assessed on the basis of performance during the training period, further the appointment is subject to the petitioner''s

declaration made in the application form during test/interview and in the event of, any declaration is found to be incorrect the petitioner''s services

will be liable to be terminated, further, is also subject to verification of character and antecedent of the candidate. The relevant extract is as follows:

Your appointment is also on the basis of your declarations in application form, during the test/interview and in other documents. In the event of

these declarations found to be incorrect in the opinion of the competent authority or in his opinion if you have suppressed any relevant information,

your services can be terminated without giving any notice. In such event you will have to pay the bond money in terms of Clause No. 7 of the

service bond executed by you.

Your appointment is subject to verification of character and antecedent being found satisfactory. If found unsatisfactory, your services are liable to

be terminated without assigning any reason or notice thereof at any time.

28. Petitioner on successful completion of training, vide office order dated 13.8.2010, was placed on the regular establishment of the company, as

Junior Engineer Grade-IV in the pay-scale of Rs. 7300-12660. The office order stated that the petitioner shall be on probation for a period of one

year and further, the other terms and conditions of appointment shall remain unchanged, that is, it was subject to the correctness of the declaration

and verification of character and antecedent of the petitioner. Thereafter, vide office order dated 11.6.2013, Chief Manager (Human Resources),

terminated the services of the petitioner forthwith from the date of issuance of letter, the petitioner''s name was struck off from office of the

corporation on the very same day. The order was issued with the approval of the competent authority.

29. The corporation in the counter affidavit has stated that the petitioner had obtained selection, as well as, appointment on the basis of

misrepresenting his caste/category i.e. stating that he belongs to ''Jat'' community whereas the Jat''s were not included under the reserved category

for employment in organizations/public sector undertakings under the Central Government, as such, on the date of selection, ''Jat'' community was

not included in the O.B.C. category for appointments under the corporation.

30. Petitioner had submitted a caste certificate belonging to "Jat" community (OBC) recognized by the State Government, thereafter the petitioner

was asked to produce a caste certificate recognized for Central Services in the prescribed format, which the petitioner supplied, on verification of

the caste certificate from the concerned District Authorities, it was informed that the "Jat" community/caste is not included under the O.B.C.

category for employment on posts of the Union Government. The Tehsildar Mawana, Meerut informed that the petitioner belongs to "Jat"

caste/community, but for Government of India service the "Jat" caste/community is not included within the O.B.C. category/reserve category, thus,

the certificate, as verified by the District Authorities, is not disputed by the petitioner, rather the petitioner admits that he belongs to the "Jat"

caste/community and he had disclosed in his form that he belonged to the other backward class. The persons belonging to the "Jat"

caste/community cannot avail the benefits of reservations in appointments in public sector undertakings falling within the domain of the Government

of India.

31. The thrust of the argument has been on the office order dated 6.8.2009, which allotted employee number to the candidates appointed as

diploma trainees and in the said order the petitioner"s category has been mentioned as "general". It is on the basis of the office order, petitioner

claims that the corporation had always treated him to be candidate belonging to the general category and not under the O.B.C. category.

32. The respondents would contend that the office order is merely a consequential order issued pursuant to the appointment of the petitioner vide

letter dated 30.6.2009 and from the record pertaining to selection, it is clear that the petitioner"s candidature was considered under the O.B.C.

category, was given benefits of reservation as permissible to the reserved category candidates. In the written test, 24 candidates qualified, the last

selected candidate obtained 47.06% marks, the petitioner"s name finds place in the list of the O.B.C. category candidates, at serial no. 3 and has

obtained 24.48 % marks.

33. The merit list of candidates, includes candidates belonging to the O.B.C. and scheduled caste category as they secured marks on merit without

any relaxation. The consolidated list of selected candidates of unreserved category and reserved category reflects that the category of the petitioner

is under O.B.C. candidates and relaxation in marks was given to him in the written test. The petitioner was offered appointment, as a substitute

candidate in place of the O.B.C. category candidate at serial no. 1, namely, Manish Kumar Saini, who did not join the post after selection. The

documents clearly reflects that the petitioner was given the benefit of relaxation being a reserved category candidate, on the basis, of his declaration

made in the form that he belonged to the other backward class category.

34. After the verification report, of the caste certificate, was received by the Corporation, the General Manager (HR) initiated proposal for

appropriate action against the petitioner, as he had obtained appointment on misrepresentation. The background mentioned in the action proposed,

clearly mentions that the petitioner was extended concessions, as admissible to a candidate of an O.B.C. category and as per Clause 17(f) of the

appointment letter, the appointment of the petitioner was provisional and was subject to the caste certificate being verified through proper channels,

since the verification reveals that the claim of the petitioner belonging to the reserved category is false, the services of the petitioner would be

terminated forthwith without assigning any further reason and without prejudice to such, further action, as may be taken under the provisions of the

Indian Penal Code for production of false certificate.

35. On the proposal submitted by Chief Manager (HR) the Competent Authority approved it for taking appropriate action as per terms and

conditions 17(f) of the appointment letter.

36. The Government of India Department of Personnel Training Establishment (Reservation Section) in its Office memorandum dated 10th

January, 2013 clearly mention that in the matter of persons, securing jobs on the basis of false/caste certificates should be proceeded against under

the disciplinary enquiry rules and such persons should not be detained in service and should be dismissed/removed forthwith.

37. As per the terms and conditions of the appointment, para 17(f) provides that the services of the employee, producing false caste certificate

would be terminated without assigning any reason. Clause 17(f) is as follows:-

Clause 17(f) of the appointment letter provides that the appointment is provisional and is subject to the caste/community certificate being verified

through proper channels. If the verification reveals that the claim to belong to SC/ST/OBC(NCL) as the case may be, if false, the services will be

terminated forthwith without assigning any further reason and without prejudice to such further action as may be taken under the provisions of the

Indian Penal Code for production of the false certificate.

38. The service conditions of the employees of the corporation is governed by Power Grid Corporation of India Ltd. Service Rules, rule 2(k) & (l)

defines probationer and regular employees:-

(k) ""Probationer"" means an employee who is provisionally employed with a view to being considered for appointment on the regular establishment

of the Corporation.

(l) ""Regular Employee"" means an employee who has been engaged in a vacancy on the regular establishment of the Corporation and, except in the

cases of those who are exempted from probation as laid down hereunder, has been declared in writing to have satisfactorily completed his

probation period in one or the other post.

Rule 24 provides for termination of service.

24.2 provides ""In terms of service contract"":-

The services of an employee may be terminated by giving such notice or pay in lieu thereof as may be prescribed in the contract of service. In

absence of any such specific provisions in the contract of service, the services of the employee may be terminated in the manner prescribed

therein.

24.2.3 provides for termination of a fresh recruit on probation which is as follows:-

24.2.3:- The services of a fresh recruit on probation can be terminated without assigning any reason by giving one month''s notice on either side or

payment of salary consisting of pay and dearness allowance in lieu thereof.

39. Rule 9 provides for probation and confirmation, rule 9.1.0. provides that unless otherwise provided in the terms of appointment or any other

agreement or award, the rule shall govern the probation or confirmation of an employee. Rule 9.1 provides that an employee shall be on probation

for one year and rule 9.1.4 provides that probation may be extended at the discretion of the Competent Authority but will not be extended for

more than one year for exceptional reasons to be recorded in writing, rule 9.1.5. provides unless exempted under these rules, every employee

appointed in the Corporation''s services will be issued a formal order of confirmation on satisfactory completion of probationary period or

extended period of probation as may be applicable. The employee shall be deemed to be on probation until so confirmed in writing and rule 9.1.6

provides that the order relating to confirmation or extension of probation will normally be communicated within one month, however, non-

compliance of this stipulation will not, however, mean automatic confirmation of the employee.

40. The corporation has taken a specific stand that no confirmation was issued in respect of the petitioner, as his antecedent was under verification,

the learned counsel for the petitioner has not been able to demonstrate from the records, as to how, the petitioner claims to have been confirmed.

There is no provision of automatic confirmation or deemed confirmation as is being argued by learned counsel for the petitioner.

41. For the reasons stated herein above, the writ petition is devoid of merit and is, accordingly, dismissed. No order as to cost.