

(2012) 12 DEL CK 0062

Delhi High Court

Case No: Writ Petition (C) 7699 of 2012 and CM 19457-59 of 2012

Lallan Jha

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision: Dec. 12, 2012**Citation:** (2013) 1 LLJ 566**Hon'ble Judges:** Siddharth Mridul, J; Badar Durrez Ahmed, J**Bench:** Division Bench**Advocate:** Jawahar Raja, for the Appellant; Amrit Pal Singh for respondent No. 1 and Mr. Sushant Kumar for respondent Nos. 2 to 4, for the Respondent**Final Decision:** Dismissed

Judgement

Badar Durrez Ahmed, J.

This writ petition is directed against the order dated 19.12.2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 2286/2010 as also the order dated 07.02.2012 whereby the petitioner's review application (RA No. 32/2012) was rejected by the said Tribunal. The petitioner had applied for the post of Life Guard at Ashok Hotel, New Delhi on 21.02.1989. In that application he had indicated his educational qualification as "High School Pass". He was offered employment through a letter dated 25.03.1989 which contained the terms and conditions of the employment. Initially he was appointed as Life Guard on contract basis for a period of six months subject to production of original documents. It is relevant to point out that the offer letter which had been given to him specifically indicated that if there was any concealment of any information or if any information furnished by him at the time of appointment was proved to be false his service was liable to be terminated.

2. After completion of six months the petitioner applied for regular employment and he was given regular employment through a letter dated 26.05.1990. Subsequently, after several years a complaint was received by the respondent regarding the genuineness of the matriculation certificate-cum-mark sheet submitted by the

petitioner at the time of appointment. The said matriculation certificate-cum-mark sheet had purportedly been issued by the Haryana Vidyalaya Shiksha Board, Bhiwani. Upon verification, it was found that the said matriculation certificate-cum-mark sheet had not at all been issued by the said Haryana Vidyalaya Shiksha Board and that the same was bogus and that the Roll No. 24047 had also been allotted to some other private candidate by the name of Ms Neelam Rani who had appeared in that examination but had been declared unsuccessful.

3. Thereafter on 26.12.2005 a charge sheet-cum-suspension order was issued to the petitioner by the respondent. The said charge sheet-cum-suspension order categorically mentioned as under:-

After completion of six months, Sh. Lallan Jha applied for regular employment for the post of Life Guard. He claimed his educational qualification as MATRIC PASS. He produced a Mark-sheet to this effect in original purportedly issued by the Haryana Vidyalaya Shiksha Board, Bhiwani dated 10th June 1982 signed by the Secretary, having S.No. H37758, Roll No. 24047 describing Sh. Lallan Jha as having qualified the Matriculation examination held by the Board in March 1982 from Government High Secondary Boys School, Faridabad in Second Division.

Again on the basis of this fake certificate Sh. Lallan Jha was given an offer of regular appointment for the post of Life Guard in the Ashok Hotel vide letter no. PB-73(30) dated 26th May 1990. He accepted and signed the offer of employment. In the prescribed form for employment, Sh. Lallan Jha, has given a certificate duly signed by him to the effect that the particulars furnished by him were true to the best of his knowledge and belief. Consequently, Sh. Lallan Jha's services were regularized with effect from 8th May 1990 and he is still continuing in the employment of Ashok Hotel.

Sh. Lallan Jha did not produce the original certificate except this Mark-sheet. So during the process of verification of this Mark-sheet towards Sh. Lallan Jha's having qualified matriculation examination in 1982 from Haryana Rajya Shiksha board, Bhiwani, I have come to know from the letter of Sh. Deshbandhu, Superintendence Examination Cell Haryana Vidyalaya Shiksha Board, Bhiwani that no such Mark-sheet has been issued by the Board. The mark-sheet produced for gaining the employment by Sh. Lallan Jha is a manufactured and forged one. The Superintendent, Examination Cell, has confirmed under his letter no. 2579/VER/E dated 12.04.2005 that the Roll No. 24047, which this mark-sheet bears, was allotted to one private candidate of the District Karnal, Miss Neelam Rani, D/o Sh. Ram Krishan, Date of Birth 14.6.1961. She appeared in the examination and was declared unsuccessful.

4. In response to the charge sheet-cum-suspension order dated 26.12.2005 the petitioner sent a reply to the General Manager, Ashok Hotel, New Delhi through a letter dated 24.05.2006. In that reply the petitioner nowhere stated that the fake

certificate from the Haryana Board had not been submitted by him. He also did not state that he had not done matriculation from the Haryana Board but had done matriculation from the Bihar Board. On the contrary he stated that the appointment had been offered to him and he joined the said post after full verification of the documents as stated including the certificate carrying the date of birth, education qualification etc. In fact he took the plea that once it has been verified at the time of his appointment, there was no occasion for a repeat of the verification process and that, too, after five years. He even cited certain decisions which, according to him, supported his contention that verification ought to be done within five years and certainly not beyond five years.

5. In sum and substance, it is apparent that on the first opportunity that the petitioner got to respond to the charge against him of having submitted a fake certificate from the Haryana Board, he had not responded by stating that he did not matriculate from the Haryana Board but had matriculated from the Bihar Board and that the certificate of the Haryana Board had not been submitted by him.

6. Thereafter, the enquiry officer was appointed and the enquiry proceedings took place which culminated in the report of the enquiry officer dated 19.05.2007. We may point out that even before the enquiry officer no certificate from the Bihar Board had been produced by the petitioner. Thereafter, the disciplinary authority concurred with the finding of the enquiry officer which was against the petitioner and passed a penalty order dated 21.05.2007 whereby the petitioner was dismissed from service. The appellate authority rejected the appeal of the petitioner by an order dated 11.01.2008. We may point out that at the stage of the appeal before the appellate authority the petitioner had taken the stand that he had actually not matriculated from Haryana Board but had done his matriculation from Bihar and he had supposedly produced a certificate issued by Bihar Vidhyalaya Pariksha Samiti indicating that he had cleared Class-X in the year 1981. That certificate was a duplicate of the purported original certificate. It was therefore contended by the petitioner at this stage that since he already had a certificate from the Bihar Board, there was no occasion for him to have submitted a forged certificate from Haryana. Anyhow, as stated above, the appellate authority rejected the petitioner's appeal by the order dated 11.01.2008.

7. Being aggrieved by the appellate authority's order the petitioner filed a writ petition before This Court being WP(C) No. 6253/2008. That was subsequently transferred to the Tribunal and the matter was renumbered as T.A. No. 396/2009. That TA was disposed of by the Tribunal by an order dated 23.11.2009 directing the appellate authority to reconsider the matter. Thereafter, the appellate authority reconsidered the appeal and passed an order on 17.02.2010 rejecting the petitioner's appeal.

8. The petitioner once again went before the Tribunal by way of OA No. 2286/2010 wherein the impugned order dated 19.12.2011 dismissing the petitioner's said

original application was passed. The review application bearing RA No. 32/2012 was also dismissed by the order dated 07.02.2012.

9. The only issue that has been raised by the Learned Counsel for the petitioner before us is that the appellate authority ought to have considered the certificate issued by the Bihar Board and if that had been done, then the petitioner would not be liable to be punished inasmuch as he would then have had the requisite qualification of matriculation at the time of initial appointment. He also submitted that there was no occasion for the petitioner to have submitted a false and fake certificate of the Haryana Board when he, in fact, possessed a certificate from the Bihar Board. He also submitted that there was no evidence that it was he who had submitted the Haryana Board certificate.

10. We have also heard the Learned Counsel for the respondents and they have taken us through the various documents which have been placed on record including the first response given by the petitioner by virtue of his reply dated 24.05.2006 to which we have already alluded to above.

11. Considering the submissions made by the counsel for the parties and after examining the record we find that no interference is called for in the Tribunal's orders which are impugned before us. The Tribunal had concluded that it is difficult to give credence to the contentions of the petitioner as there would be no one else who would stand to gain except the petitioner himself from the mark sheet placed in his personal file. The Tribunal also concluded that the petitioner would not have been taken into employment and subsequently regularized without a proper document showing that he had fulfilled the basic requirement of being high school pass. Therefore, according to the Tribunal, it was the petitioner alone who would stand to gain by submitting the certificate. It is not in dispute that the mark sheet of the Haryana Board was in personal file of the petitioner. The said mark sheet pertained to the petitioner. The Tribunal was also of the view that the charge against the petitioner specifically dealt with the issue of furnishing the forged and fake mark sheet from Haryana and it has been established that the mark sheet was fake and that the petitioner had not matriculated from Haryana. The Tribunal also held that the story put together by the petitioner before the appellate authority and before the Tribunal was an after-thought.

12. We agree with these conclusions and we would also like to point out that the petitioner's story does not have a ring of truth for the simple reason that in the first instance when he replied to the charge sheet he did not mention anywhere that the certificate that had been mentioned in the charge sheet was not submitted by him. In fact, in the reply there is not even a whisper of his having matriculated from Bihar and not from Haryana. The Tribunal is absolutely right in coming to the conclusion, in these circumstances, that the story now put up by the petitioner is an after-thought and a device to somehow wriggle out of the difficulty in which he finds himself. Therefore, we see no reason to interfere with the impugned order. The writ

petition has no merit and the same is dismissed. There shall be no order as to costs.