

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-296-2023(O&M)
Date of decision: 17.03.2023

Parul

... Appellant

Versus

Uttar Haryana Bijli Vitran Nigam Limited and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Sandeep Dhull, Advocate, for the appellant.

Mr. Dhanpat Rai Singh, Advocate, for the respondents.

RAVI SHANKER JHA, C.J. (Oral)

This appeal has been filed by the appellant being aggrieved by order dated 10.03.2023, passed in CWP-22231-2020, whereby the appellant's petition, seeking quashing of the order dated 16.12.2020, vide which the services of the petitioner on the post of Lower Divisional Clerk in the establishment of respondent(s) has been terminated for producing a fraudulent certificate, has since been dismissed by the learned Single Bench of this Court.

The facts leading to filing of the present appeal are that the respondent-authorities issued an advertisement in the year 2016 for making appointment to the posts of Lower Divisional Clerks. The appellant applied pursuant to the same and along with her application, she filed document to indicate that she had 'O' Level course certificate issued by NIELIT, which was a necessary eligibility qualification prescribed in the advertisement. Thereafter, the appellant on the basis of the said certificate appeared in the

selection process and was ultimately appointed as LDC, vide letter dated 10.06.2019.

The respondent-authority got the authenticity and veracity of 'O' Level certificate produced by the appellant verified and found that the same was not genuine as the Controller of Examination, NIELIT, New Delhi, vide its letter dated 19.08.2020, informed the Nigam that registration No.642354 of 'O' Level certificate produced by the appellant was in fact issued to some other candidate and the certificate relied upon by the appellant for the purposes of claiming eligibility and appointment had never been issued to her by the NIELIT.

On the basis of the said information and the letter sent by the Controller of Examination, NIELIT, the respondent-authorities issued a show cause notice to the appellant and thereafter finding that the 'O' Level certificate submitted by the appellant was fraudulent, issued the impugned order dated 16.12.2020 terminating her services.

The appellant being aggrieved filed civil writ petition before this Court, which has been dismissed by the learned Single Judge on the ground that the attempt of the appellant to obtain employment by practicing fraud vitiated the appointment. The learned Single Judge has relied upon a Single Bench's decision of this Court in CWP No.23717 of 2021, titled **Madhulika v. DHBVNL and others**, decided on 22.09.2022, and a decision of the Division Bench of this Court in **Managing Committee, Goswani Ganesh Dutt Sanatan Dharam College, Palwal and another v. Sabir Hussain and others**, 2022(2) SCT 386.

Learned Senior counsel for the appellant submits that even if the 'O' Level certificate submitted by the appellant has been found to be

fraudulent and is ignored, the appellant even otherwise fulfills the eligibility qualification prescribed by the authorities as she possessed a BCA degree, which was a qualification subsequently prescribed and accepted by the authorities. He, therefore, submits that as the appellant fulfills the necessary eligibility qualification even without considering the 'O' Level certificate, and was granted appointment and has worked on the post, the impugned order of termination deserves to be set aside. He submits that the learned Single Judge not having given adequate weight to the said argument of the appellant has committed an illegality warranting interference by this Court.

We have heard the learned counsel for the appellant at length and have also perused the order passed by the learned Single Judge and the records of the case.

From a perusal of the record, it is evident that the eligibility qualification notified in the advertisement required a candidate to possess an 'O' Level course or above of computer, for a minimum period of one year from NIELIT. The qualification prescribed is as under:

- “i) Bachelor Degree in commerce with a minimum 50% marks in respect for General Category candidates and 45% marks of SC category candidates of Haryana Domicile from any university recognized by the Govt. of Haryana. The percentage marks required for other categories would be same as for General category candidates.**
- ii) Knowledge of Hindi/Sanskrit upto Matric Standard or higher education.**
- iii) 'O' Level course or above of computer, for a minimum period of One year from NIELIT (DOEACC) or HARTRON.”**

It is also evident that the appellant produced the 'O' Level certificate from NIELIT on the basis of which a letter of appointment was issued to her on 10.06.2019, which contained the following conditions:

“2.(c) It should be clearly understood that this appointment is purely temporary and that her services can be terminated by giving one month notice by the Nigam on the one side and you on the other side or on payment of one month pay plus allowances in lieu of notice period thereof, except in case of mis-conduct of any description of unsatisfactory work, when her services can be terminated without notice and without assigning any reason.

3.(XII) She has not concealed any information from the UHBVNL which will render you unfit for the present service. In case any concealment is could later on then her services can be terminated by Competent Authority without any notice.

(XVI) This offer of appointment is on provisional basis subject to verification of documents/certificates by the issuing authorities. If on verification these are not found to be genuine or are bogus, your services will be terminated/dispensed with forthwith without any notice and assigning any reason.

7. This letter is not to be treated to be a letter of appointment. Her appointment for the post of Lower Divisional Clerk in UHBVNL will be subject to fulfilling the prescribed qualification and other conditions of eligibility as per service rules/requisition/advertisement and if at any stage, is noticed/observed that the requisite information/document(s)/qualification(s) are not as per the requirement, her appointment will be cancelled or your services will be terminated.

Note: Any breach of condition and any wrong statement in the affidavit mentioned above may result in

loss of your services and your service is liable to be terminated/dispensed with on this account alone.”

From the conditions contained in the appointment letter issued to the appellant, it is clear that the appointment was subject to verification of documents/certificates by the issuing authorities and in case, the documents were found not to be genuine or were found to be bogus, then the services of the appellant were liable to be terminated without any notice, and that if any of the information submitted by her was found to be inadequate or incorrect, the appointment was liable to be cancelled/terminated. A clear note was also mentioned in the appointment letter stating that any wrong statement in the affidavit mentioned by the candidate would result in loss of services on account of furnishing wrong statement alone.

A perusal of the record further indicates that when the ‘O’ Level certificate filed by the appellant was found to be fraudulent as the NIELIT, New Delhi, vide its letter dated 19.08.2020, informed the authority that the same was not issued to the appellant and that the certificate attached by the appellant along with her application was not issued to her at all, the authorities, though they were not required to do, issued a show cause notice to the appellant on 25.09.2020 to which she sought time to file reply after verifying the facts, and she was granted time as well as the opportunities to do so. Furthermore, the appellant was also granted personal hearing by the authorities on 10.12.2020. Thereafter, the authorities on finding that the appellant had failed to submit any evidence regarding genuineness of the document filed by her, held that the appointment obtained by her by submitting fake/forged certificate was *void ab initio* and *non est* in the eyes

of law as she had obtained it by playing a fraud. Consequently, the authorities issued the impugned order of termination on 16.12.2020.

From a perusal of the aforesaid facts and circumstances, it is evident that the appellant sought to seek appointment on the post of Lower Divisional Clerk on the strength of a false 'O' Level certificate and, therefore, attempted to obtain appointment by playing a fraud. It is settled law that where any benefit is obtained by a person by playing fraud then such benefit cannot be sustained in the eyes of law as fraud vitiates everything. The Supreme Court in Meghmala and others v. G. Narasimha Reddy and others, 2010(8) SCC 383, while laying down the consequences of fraud by a party, has held as under:

“28. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order cannot be sustained in the eyes of law. "Fraud avoids all judicial acts ecclesiastical or temporal." (Vide S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. & Ors. AIR 1994 SC 853). In Lazarus Estate Ltd. Vs. Besalay 1956 All. E.R. 349), the Court observed without equivocation that "no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything."

29. In Andhra Pradesh State Financial Corporation Vs. M/s. GAR Re-Rolling Mills & Anr. AIR 1994 SC 2151; and State of Maharashtra & Ors. Vs. Prabhu (1994) 2 SCC 481, this Court observed that a writ Court, while exercising its equitable jurisdiction, should not act as to prevent perpetration of a legal fraud as the courts are obliged to do justice by promotion of good faith. "Equity is, also, known to prevent the law from the crafty evasions and subtleties invented to evade law."

30. In *Smt. Shrisht Dhawan Vs. M/s. Shaw Brothers*. AIR 1992 SC 1555, it has been held as under:-

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

31. In *United India Insurance Co. Ltd. Vs. Rajendra Singh & Ors.* AIR 2000 SC 1165, this 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.

32. The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit to the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud. (See *District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram & Anr. Vs. M. Tripura Sundari Devi* (1990) 3 SCC 655; *Union of India & Ors. Vs. M. Bhaskaran* (1995) Suppl. 4 SCC 100; *Vice Chairman, Kendriya Vidyalaya Sangathan & Anr. Vs. Girdharilal Yadav* (2004) 6 SCC 325; *State of Maharashtra v. Ravi Prakash Babulalsing Parmar* (2007) 1 SCC 80; *Himadri Chemicals Industries Ltd. Vs. Coal Tar Refining Company* AIR 2007 SC 2798; and *Mohammed Ibrahim & Ors. Vs. State of Bihar & Anr.* (2009) 8 SCC 751).

33. Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression "fraud" involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide *Dr. Vimla Vs. Delhi Administration* AIR 1963 SC 1572; *Indian Bank Vs. Satyam Fibres (India) Pvt. Ltd.* (1996) 5 SCC 550; *State of Andhra Pradesh Vs. T. Suryachandra Rao* AIR 2005 SC

3110; K.D. Sharma Vs. Steel Authority of India Ltd. & Ors. (2008) 12 SCC 481; and Regional Manager, Central Bank of India Vs. Madhulika Guruprasad Dahir & Ors. (2008) 13 SCC 170).”

In the case of Regional Manager, Central Bank of India v. Madhulika Guruprasad Dahir and others, 2008(13) SCC 170, where a person had obtained appointment on the basis of a false caste certificate, the Supreme Court held that fraud vitiates everything and, therefore, even if a person has continued to work on the post for over 20 years, even then, having obtained appointment on the basis of false and forged caste certificate, cannot claim any equity or benefit on that basis and observed:

“14. Similarly, the plea regarding rendering of services for a long period has been considered and rejected in a series of decisions of this Court and we deem it unnecessary to launch on exhaustive dissertation on principles in this context. It would suffice to state that except in a few decisions, where the admission/appointment was not cancelled because of peculiar factual matrix obtaining therein, the consensus of judicial opinion is that equity, sympathy or generosity has no place where the original appointment rests on a false caste certificate. A person who enters the service by producing a false caste certificate and obtains appointment for the post meant for a Scheduled Caste or Scheduled Tribe or OBC, as the case may be, deprives a genuine candidate falling in either of the said categories, of appointment to that post, does not deserve any sympathy or indulgence of this Court. He who comes to the Court with a claim based on falsity and deception cannot plead equity nor the Court would be justified to exercise equity jurisdiction in his favour.

15. An act of deliberate deception with a design to secure something, which is otherwise not due, tantamounts to fraud. Fraud is a conduct either by letter or words, which induces 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. [See: R. Vishwanatha Pillai Vs. State of Kerala & Ors.68 Bank of India (supra), Addl. General Manager (supra), Derry Vs. Peek7, Ram Preeti Yadav Vs. U.P. Board of High School and Intermediate Education & Ors.8 and Bhaurao Dagdu Paralkar Vs. State of Maharashtra & Ors.9]

16. In Ram Chandra Singh Vs. Savitri Devi & Ors. (2003) 8 SCC 319, this Court had observed that 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.

17. Recently, in State of Maharashtra & Ors. Vs. Ravi Prakash Babulalsing Parmar & Anr. (2007)1 SCC 80, dealing with a similar situation, this Court has observed thus:

"The makers of the Constitution laid emphasis on equality amongst citizens. The Constitution of India provides for protective discrimination and reservation so as to enable the disadvantaged group to come on the same platform as that of the forward community. If and when a person takes an undue advantage of the said beneficent provision of the Constitution by obtaining the benefits of reservation and other benefits provided under the Presidential Order although he is not entitled thereto, he not only plays a fraud on the society but in effect and substance plays a fraud on the Constitution. When, therefore, a certificate is granted to a person who is not otherwise entitled thereto, it is entirely incorrect

to contend that the State shall be helpless spectator in the matter."

18. Having considered the matter in the light of the afore- stated legal position, in our judgment, the decision of the High Court is untenable. As noted supra, the employee having accepted the finding of the Scrutiny Committee, holding that the caste certificate furnished by the employee was false, the very foundation of her appointment vanished and her appointment was rendered illegal. Her conduct renders her unfit to be continued in service and must necessarily entail termination of her service. Under these circumstances, there is absolutely no justification for her claim in respect of the post merely on the ground that she had worked on the post for over twenty years. The post was meant for a reserved candidate but she usurped the same by misrepresentation and deception. In our opinion, the fact that caste certificate was referred to the Scrutiny Committee for verification after ten years of her joining the service and a long time was taken by the Scrutiny Committee to verify the same is of no consequence inasmuch as delay on both the counts does not validate the caste certificate and the consequent illegal appointment.

19. We are also unable to persuade ourselves to agree with learned counsel for the employee that in the absence of any finding of fraud having been played by the employee, the order of the High Court is equitable and should not be interfered with. As noted above, the selection of the employee was conceived in deceit and, therefore, could not be saved by equitable considerations."

The cancellation of appointments obtained by producing false/ forged caste certificates, and by playing a fraud, has also been upheld by the Supreme Court in Chief Regional Officer, Oriental Insurance Company Limited v. Pradip and another, 2020(11) SCC 144; Chandrabhan v.

State of Maharashtra and others, 2021(9) SCC 804; and Chief Executive Officer, Bhilai Steel Plant, Bhilai v. Mahesh Kumar Gonnade and others, 2022 SCC Online SC 866.

In the case of Devendra Kumar v. State of Uttaranchal and others, 2013(9) SCC 363, the Supreme Court upheld the cancellation of appointment of a person who had obtained the same by suppressing material facts regarding the criminal case pending against him and the said decision has been followed and relied upon by the Supreme Court subsequently in the case of Rajasthan Rajya Vidyut Prasaran Nigam Limited and another v. Anil Kanwariya, 2021(10) SCC 136; State of Rajasthan and others v. Chetan Jeff, 2022 SCC Online SC 597; Government of NCT of Delhi & Ors. v. Bheem Singh Meena (Civil Appeal No.2599 of 2022, dated 31.03.2022).

This Court has also followed the said decisions in the similar circumstances and upheld the cancellation of appointment in the cases of Vikash v. State of Haryana and others, (LPA No.944 of 2021, dated 15.07.2022); Bhupender v. State of Haryana and others, (LPA No.858 of 2021, dated 30.05.2022); Dinesh Kumar v. State of Haryana and others, (LPA No.72 of 2022, dated 02.02.2022); Abhishek Goyat v. State of Haryana and another, (LPA No.316 of 2022, dated 25.04.2022); Ex. Const. Raical v. State of Haryana and others, (LPA No.1215 of 2021, dated 27.07.2022); and Abhishek Yadav v. State of Haryana and others, (LPA No.1036 of 2021, dated 15.07.2022).

The learned Single Judge has rightly relied upon the decision of the Division Bench of this Court in Managing Committee, Goswani

Ganesh Dutt Sanatan Dharam College (supra), to uphold the termination of the services of the appellant in the instance case.

When the facts of the instant case are examined in the light of the aforesaid law laid down by the Supreme Court, it is evident that no fault can be found with the act of the authorities in terminating the services of the appellant, and the decision of the learned Single Judge, as undisputedly the appellant sought to obtain appointment by producing a fraudulent document. In such circumstances, as fraud renders the appointment itself *void ab initio* and *non est*, and the act of the appellant renders her ineligible for being considered for appointment, the contention of the learned counsel for the appellant that this act of fraud on the part of the appellant be ignored and over-looked, and she be granted appointment on the strength of the fact that she possessed the necessary qualification for appointment, is misconceived. The action that has been taken against the appellant has been taken on account of fraud committed by the appellant and, therefore, the question of her being eligible or otherwise does not arise as her attempt to obtain appointment by playing fraud disentitles her to be considered for appointment or to claim appointment.

It would be travesty of justice to force the respondents to retain a person like the appellant in service when they have lost all faith and trust in her on account of the fraud committed by her. The appellant cannot invoke or claim any relief even on account of equity and sympathy because of her act of fraud.

In the circumstances, we do not find any illegality in the order passed by the learned Single Judge warranting interference. Nor do we find

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any merit in the appeal filed by the appellant. The appeal being meritless is accordingly dismissed.

**(Ravi Shanker Jha)
Chief Justice**

**(Arun Palli)
Judge**

17.03.2023

Rajan

Whether speaking / reasoned:

YES/NO

Whether Reportable:

YES/NO