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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1668/2014

KIRAN THAKUR Petitioner

Through: Ms. Anupama Sharma,
Advocate

versus

RESIDENT COMMISSIONER
BIHAR BHAVAN Respondent

Through: Mr. Abhinav Singh, Mr.
Manish Kumar, Ms. Shaswati
Parhi, Advocates
(M:7210088888)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

18.05.2023

MINI PUSHKARNA, J.

1. The present writ petition has been filed for setting aside the order dated 21.02.2014 issued by the respondent, Bihar Bhawan, terminating the service of the petitioner.
2. The petitioner was given compassionate appointment in Bihar Bhawan in Group-IV, after the death of her husband, who was working as driver with the Bihar Bhawan. During the course of her service, show Cause Notice dated 09.09.2009 was issued to the petitioner on the allegation that she was always creating nuisance loudly under the influence of alcohol day and night, thereby causing inconvenience as well as disturbance to the neighbour families and guests residing in Bihar Bhawan. In the said show cause notice, it was

further alleged that the petitioner had threatened the staff car driver in the office room of the Assistant Manager. Thereafter, on the same date, the petitioner was suspended vide office order dated 09.09.2009 for misconduct and indiscipline for the offence of misbehaviour under the influence of liquor, assault and abuse to residential employees in staff quarter and for threatening the staff car driver.

3. During the suspension period, in the course of preliminary inquiry conducted by the respondent, it came to the fore that certificate submitted by the petitioner in support of her qualification as Class 8th pass issued by the Headmaster, Middle School Kachhuwa, Yogipara, Darbhanga, Bihar, was a forged document. The date of passing of 8th class by the petitioner was shown as 10.02.1988, whereas the study of 8th class was started in that school only in the year 2007. Letter dated 18.11.2009 was sent by the Secretary to the State Government, Department of Human Resource Department, Bihar, Patna to the Resident Commissioner, Bihar Bhawan, New Delhi in this regard.

4. Pursuant to the aforesaid, letter dated 07.12.2009 was issued to the petitioner to present her clarification as to why necessary disciplinary action should not be initiated against her regarding her act of submitting forged educational certificate as proof of her academic qualification, thereby procuring state government job in a fraudulent manner and also indulging in act of misconduct.

5. Subsequently, departmental proceedings were initiated against the petitioner vide office order no. 173 dated 15.02.2011 on the allegations of submission of forged educational qualification

certificate by the petitioner. Charge sheet dated 27.02.2011 was issued, to which the petitioner submitted her reply dated 03.06.2011.

6. Thereafter, Inquiry officer was appointed who duly conducted the inquiry qua the allegations against the petitioner. By letter dated 07.06.2011, the Inquiry Officer submitted his report. In his report, the Inquiry Officer held that the charges against the petitioner were proved. He held that the petitioner failed to prove that her educational certificate was authentic.

7. Thereafter, show cause notice dated 13.07.2011 was issued by the respondent to the petitioner to show cause as to why she should not be punished with maximum punishment. In reply, by her letter dated 21.07.2011, the petitioner sought forgiveness. Subsequently, by letter dated 28.07.2011, she requested for time to file her detailed defence. The petitioner thereafter submitted a detailed representation dated 19.08.2011.

8. In the meanwhile, the petitioner filed a writ before this Court, *W.P. (C) 7654/2013* praying for revocation of her suspension order.

9. Subsequently, a last show cause notice dated 15.01.2014 was issued by the respondent. The petitioner submitted reply to the same. Considering the facts and circumstances of the case and after considering the various documents on record, the petitioner was dismissed from service vide office order dated 21.02.2014. Thus, the present writ petition has been filed challenging the termination order.

10. Since the petitioner was dismissed from service, this Court vide order dated 05.09.2014 disposed of the writ of the petitioner against suspension order, as infructuous.

11. On behalf of the petitioner, it is contended that the petitioner was not served with any charge sheet and Principles of Natural Justice were not followed. The petitioner was removed unceremoniously without following any process or procedure. It is submitted that it was only after the dismissal from service that the petitioner came to know of the proceedings before Enquiry Officer. It is contended that the genesis and origin of the departmental proceedings is based upon a document, which is manufactured. Further, the petitioner was not provided with any documents and she never participated in any departmental proceedings.

12. In support of her submissions, learned counsel appearing for the petitioner has relied upon the following judgments:

- (i) *State of Uttaranchal and Others Vs Kharak Singh*, (2008) 8 SCC 236
- (ii) *Life Insurance Corporation of India and Another Vs Ram Pal Singh Bisen*, (2010) 4 SCC 491
- (iii) *Phulbari Tea Estate Vs Workmen*, (1960) 1 SCR 32
- (iv) *Pepsu Road Transport Corporation Vs Lachhman Dass Gupta and Another*, (2001) 9 SCC 523
- (v) *Bharat Sugar Mills Ltd. Vs Jai Singh*, (1962) 3 SCR 684
- (vi) *Union of India Vs Sardar Bahadur*, (1972) 4 SCC 618
- (vii) *Union of India and Others Vs Mohd. Ramzan Khan*, (1991) 1 SCC 588
- (viii) *Jagannath Singh Choudhary Vs State of Bihar & Ors.*, (2004) SCC OnLine Pat 377
- (ix) *Telangana Judges Association and Another Vs Union of*

***India and Others*, (2019) 18 SCC 769**

13. On the other hand, learned counsel appearing for the respondent submits that the action against the petitioner was taken after following due procedure by carrying out departmental proceedings against the petitioner. It is submitted that full opportunity was granted to the petitioner to defend her case. It is further submitted that the petitioner has suppressed material facts and documents from this Court and has wrongly contended that she came to know about the disciplinary proceedings only subsequently. It is submitted that the charges against the petitioner were proved and therefore, she was rightly dismissed from service.

14. Learned counsel for the respondent has relied upon the judgment dated 21.04.2022 in the case of ***M/s Indian Oil Corporation Ltd. Vs Sh. Rajendra D Harmalkar***, in *Civil Appeal No. 2911/2022*.

15. I have heard learned counsels for the parties and have perused the documents.

16. At the outset, it is noted that the petitioner has put up a totally false case before this Court that she did not participate in the departmental proceedings or that she was unaware of any departmental proceedings, till she received the termination letter. The documents placed on record on behalf of the respondent clearly show that the petitioner was fully aware of the departmental proceedings against her and that she fully participated in the same. The contention raised on behalf of the petitioner that the petitioner was not served with any charge sheet, is belied by the documents on record, which show that the petitioner not only filed reply to the charge sheet, but

also filed reply to the various show cause notices that were issued to the petitioner at different stages. The proceedings before the Inquiry Officer have been placed on record by the respondent, which clearly record the presence of the petitioner during the said departmental proceedings.

17. There is a clear finding by the Enquiry Officer that the petitioner has not been able to prove that the certificate of passing Class 8th, as submitted by her, was a genuine document. Rather, the petitioner prayed to the respondent that she may be given time of one year for appearing and qualifying in Class 8th exam, so that she could produce certificate of passing 8th class. In the alternative, the petitioner requested that her son may be given appointment on the basis of eligibility of Class 8th pass.

18. The submission on behalf of the petitioner that passing Class 8th was not a pre-requisite for compassionate appointment in Group-IV job at the material time, does not hold any water. The fact remains that the petitioner submitted a forged document in support of her educational qualification at the time of seeking compassionate appointment. Supreme Court has categorically held that whether a forged certificate is material or not, or had any bearing on the employment, is immaterial. Thus, in the case of *M/s Indian Oil Corporation Ltd. Vs Sh. Rajendra D Harmalkar*, reported as 2022 SCC OnLine SC 486, it has been held as follows:-

“7.1 In the present case, the original writ petitioner was dismissed from service by the Disciplinary Authority for producing the fabricated/fake/forged SSLC. Producing the false/fake certificate is a grave misconduct. The question is

one of a TRUST. How can an employee who has produced a fake and forged marksheet/certificate, that too, at the initial stage of appointment be trusted by the employer? Whether such a certificate was material or not and/or had any bearing on the employment or not is immaterial. The question is not of having an intention or mens rea. The question is producing the fake/forged certificate. Therefore, in our view, the Disciplinary Authority was justified in imposing the punishment of dismissal from service.”

19. The petitioner is guilty of suppression of material facts and documents even from this Court.

20. Employees who are guilty of submitting forged documents to their employer, have to be dealt with in a strict manner. If a person submits forged and fabricated documents, then such a person is certainly unfit to be employed. No sympathy or compassion can be shown to such an employee. Thus, when the charge against the petitioner stands proved, the punishment of dismissal from service imposed by the respondent cannot be faulted with. In the case of ***Rajasthan Rajya Vidyut Prasaran Nigam Limited and Another Vs. Anil Kanwariya***, 2021 SCC Online SC 739, Supreme Court has held as follows:-

“8.1. In B. Chinnam Naidu [State of A.P. v. B. Chinnam Naidu, (2005) 2 SCC 746 : 2005 SCC (L&S) 323] , this Court has observed that the object of requiring information in the attestation form and the declaration thereafter by the candidate is to ascertain and verify the character and antecedents to judge his suitability to enter into or continue in service. It is further observed that when a candidate suppresses material information and/or gives false information, he cannot claim any right for

appointment or continuance in service.

8.3. It is further observed by this Court in Devendra Kumar [Devendra Kumar v. State of Uttaranchal, (2013) 9 SCC 363 : (2014) 1 SCC (L&S) 270] that where an applicant employee gets an order by misrepresenting the facts or by playing fraud upon the competent authority, such an order cannot be sustained in the eye of the law. "Fraud avoids all judicial acts, ecclesiastical or temporal." It is further observed and held that dishonesty should not be permitted to bear the fruit and benefit those persons who have defrauded or misrepresented themselves and in such circumstances, the court should not perpetuate the fraud by entertaining petitions on their behalf."

21. In view of the aforesaid detailed discussion, the present writ petition is found without merits and is accordingly dismissed.

**(MINI PUSHKARNA)
JUDGE**

MAY 18, 2023

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