



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Writ Petition No. 4233/2022

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4.

----Petitioners

Versus

----Respondent

For Petitioner(s) : Mr. Rajendra Prasad Sharma

For Respondent(s) : Mr. Mukesh Kumar Meena

**HON'BLE THE CHIEF JUSTICE MR. PANKAJ MITHAL
HON'BLE MRS. JUSTICE SHUBHA MEHTA**

Order

01/02/2023

1. Heard Mr. Rajendra Prasad Sharma, learned counsel for the respondents-petitioners and Mr. Mukesh Kumar Meena, learned counsel for the petitioner-respondent.

2. The petitioner-respondent was employed as a cook with the Jawahar Navodaya Vidyalaya (JNV). His services were terminated



vide order dated 06.05.2015 following an enquiry into the charges of having produced forged experience certificates.

3. The petitioner-respondent for the purposes of securing the job of the cook had produced certain certificates of the Hotel Hawa Mahal, Hotel Holiday Inn and a canteen of Hindustan Zink Ltd. to show that he had the relevant experience of cooking of five years. Subsequently, the respondents-petitioners held an enquiry against the petitioner-respondent for producing forged certificate for the purposes of obtaining the job. In the said disciplinary enquiry, certain letters were obtained from the above hotels and canteen stating that the respondents had not worked with them.

4. On the basis of the said documentary evidence, the enquiry report went against the petitioner-respondent and his services were terminated.

5. The petitioner-respondent challenged the termination order by means of an Original Application before the Central Administrative Tribunal, Jaipur. The said Original Application has been allowed by the impugned judgment and order dated 30.09.2021 holding that the petitioner-respondent was not afforded any opportunity to rebut the evidence produced to prove the certificates to be fake rather no evidence was adduced against the documentary evidence in the form of letters to prove the certificates to be fake.

6. The Court relying upon a Supreme Court decision in the case of **Life Insurance Corporation of India & Anr. Vs. Ram Pal Singh Bisen, reported in (2010) 4 SCC 491**, wherein it has been held that if an order of punishment is passed solely on the basis of documentary evidence and the same is not proved by



examining witnesses executing the said document, the order of punishment cannot be sustained even if the documents are admitted by the charged Officer.

7. In the case at hand, the punishment order has been passed solely relying upon the letters alleging that the experience certificates of the petitioner-respondent are fake but without examining any witness to prove the said letters. No witness was examined to prove that said letters were written by the person concerned.

8. In view of the above, as the said letters were not proved, no order of punishment could have been passed treating the certificates of experience furnished by the petitioner-respondent to be fake.

9. The other argument of learned counsel for the respondents-petitioners is that against the order of termination, the petitioner-respondent had an opportunity of a departmental appeal and he could not have straightaway approached the Tribunal by means of an Original Application.

10. The petitioner-respondent is a Group-D employee and his appointing/disciplinary authority is the Principal, JNV, who is the competent authority to pass an order of punishment. Against the order of the punishment as per the Notification dated 06.03.2007, the petitioner-respondent had a remedy of an appeal before the Appellate Tribunal that has been specified as Deputy Commissioner.

11. In the case at hand, the punishment order against the petitioner-respondent has been passed not by the Principal, JNV but the Deputy Commissioner and as such, the petitioner-respondent had no remedy left to file any appeal. In cases where the order of



punishment itself is passed by a higher authority than the appointing/disciplinary authority or by the appellate authority, the remedy of appeal loses significance and in such a situation, the petitioner-respondent was left with no remedy but to approach the Tribunal or the Court.

12. In view of the aforesaid facts and circumstances, we do not find any merit in this writ petition and the same is accordingly dismissed with no order as to costs.

(SHUBHA MEHTA),J

(PANKAJ MITHAL),CJ

N.GANDHI/RAJAT/26