

(2025) 07 AHC CK 0804
In the Allahabad High Court
Case No : Writ Petition A No. 7181 Of 2025

Akansh Choudhary

APPELLANT

Vs

Union Of India And 2 Others

RESPONDENT

Date of Decision : 29-07-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 210, 212, 223, 223(1), 225, 226, 528

Code of Criminal Procedure Act, 1973 — Section 482

Citation : (2025) 07 AHC CK 0804

Hon'ble Judges : Rajnish Kumar, J

Bench : Single Bench

Advocate : Shantanu Sharma, Anshuman Sharma, Athar Ali

Final Decision : Allowed

Judgement

Saurabh Shyam Shamshery, J

1. Heard Sri Naman Agarwal, learned counsel for petitioner, Sri Vivek Kumar Singh, learned counsel for respondent No.1 and Sri Utkarsh Prakash Singh, holding brief of Sri Santosh Kumar Singh, learned counsel for respondent Nos. 2 and 3.

2. The petitioner is a 2013 graduate in B.Tech (Mining Engineering) from a prestigious institution, namely, IIT, (Indian School of Mines), Dhanbad, Jharkhand. He has claimed that from 01.07.2013 to 30.01.2014, he worked as a Management Trainee (Supply Chain) in a company named, M/s Hansa Management Services Pvt. Ltd. (hereinafter referred to as, 'M/s HMSPL') and subsequently, from 31.01.2014 till 18.01.2017, worked as a Trade Executive at another company named M/s Zicron Sugar Solutions Pvt. Ltd (hereinafter referred to as, 'M/s ZSSPL').

3. The dispute in present case is the experience certificate issued by M/s ZSSPL as it is alleged to be a fake experience certificate though disputed by the

petitioner. The petitioner has applied for the post of Junior Executive (Commercial) at Airports Authority of India and at that stage, he has not disclosed about his experience as M/s ZSSPL and he cleared the examination, interview and joined as Junior Executive (Commercial) at Vadodara Airport with effect from 19.01.2017.

4. Later on in pursuance of an advertisement No.2 of 2018, issued by Airports Authority of India, the petitioner has applied for the post of Manager (Commercial), which requires a 5 years experience in executive cadre in the field of marketing. At this juncture, petitioner has submitted an experience certificate dated 22.02.2017 issued by M/s ZSSPL. The petitioner was successful in the examination process and an appointment letter dated 14.05.2019 was issued for the post of Manager (Commercial) at AAI, Coimbatore and he joined at said post on 03.06.2019.

5. It is further case of petitioner that an anonymous unsigned complaint dated 10.05.2019 was sent at the Office of respondents that experience certificate issued from M/s ZSSPL submitted by petitioner was fake. It is further case of petitioner that experience certificate was verified by M/s ZSSPL vide letter dated 16.03.2020 and 27.02.2021 in pursuance of communications made by the respondents, still a charge-sheet dated 03.11.2022 was issued against petitioner for submitting a fake experience certificate.

6. The petitioner has submitted a reply and participated in the inquiry also which is reflected from document annexed along with this writ petition that he was granted opportunity to cross examination of witnesses also. The Inquiry Officer submitted an inquiry report dated 06.11.2023, which refers that inquiry was conducted as many as on 8 dates and petitioner was allowed to participate and has cross-examined witnesses at length. The inquiry report is a detailed document, wherein after analysing statements of witnesses and their cross-examination and documents, it was finally concluded that article of charge No. 1 was proved that experience certificate submitted by petitioner that he has worked from 31.01.2014 to 18. 01.2017 in M/s ZSSPL was a fake document. The relevant part of inquiry report is reproduced hereinafter :-

"VII. ANALYSIS OF STATEMENTS OF PROSECUTION WITNESSES MADE DURING THE INQUIRY/EXAMINATION- CROSS EXAMINATION:

Out of 4 Prosecution witnesses. 3 were present on tour while fourth witness(Sh. Kamlesh H Shah, SM(HR)) had been retired and went to abroad as informed by controlling station and could not joined the hearing.

During the inquiry, P.O. examined and CO cross examined the witnesses.

Sh. Hitesh Ratilal Vora, Mgr (HR) (Emp no 10014700) from Vadodara Airport, Sh. Sanjiv Dwivedi, Sr. Supdt (HR) (Emp no 10021633) from Indore airport and Sh. K Devadas, then CVO(I). now JtGM(E-E) (Emp no 10000270) Colmbatore Airport were the Prosecution Witnesses called on tour on 14 and 15 Sept 23 at Varanasi.

1. Sh. Hitesh Ratilal Vora, Mgr(HR) was examined and cross-examined by PO and CO respectively on 14th Sept 23.

He was asked by PO Sh. Abhay Sinha about the procedure of submitting an application to APD, Vadodara, prosecution witness replied that application is submitted directly to APD, Vadodara and there after it is marked to concerned section.

After not finding the entries in service book regarding previous experience prior to joining AAI, prosecution witness asked CO verbally to submit it by 26.02.2019 but CO didn't submit and prosecution witness filled the application in service book after discussion with APD, Vadodara.

It is to be noted that normally an applicant who applied for a vacancy is desirous to ensure that his credentials are submitted/updated but CO never enquired after submitting the application whether his experience certificate are updated. This creates doubt towards CO.

2. Sh. Sanjiv Dwivedi Sr. Supdt (HR) was examined and cross-examined on 14th Sept 23

He was asked by PO that any written instructions given to him by Sh. Hitesh Vora, then AM(HR), Vadodara airport regarding the application of Sh. Akansh Choudhary, Mgr(Commercial) dated 12/11/2/18. Prosecution witness replied that instruction was oral not written and same is mentioned in his statement dated 01.09.2020. He told that he received the application on

13.02.2019 marked to him. Further he kept the application pending till further orders to comply Sh. Hitesh Vora's instruction.

He further added that neither oral or written instruction was given to him to verify the experience related records regarding the said application (dtd. 12.11.2018 by Sh. Akansh Choudhary) from his service book/personal file.

He replied that as per written instruction dtd 26.02.2019 by Sh. Hitesh Vora the said application(dtd. 12.11.2018 by Sh. Akansh Choudhary) was filed in personal file. On 26.02.2019 he had put a note on the application "file in SB" so the application was filed in personal file.

3. Sh. K Devadas, JtGM(E-E) was examined and cross- examined on 15th Sept 23.

Prosecution witness had visited the site of ZSSPL, Pitampura, Delhi. It was a room of size 3m X 4m having company name board with only one chaukidar. Prosecution witness enquired chaukidar about the person who signed the certificate and asked him that he wanted to talk regarding emails/letter sent to the company Chaukidar directed him to another person from nearby place. But that person was not the person who had signed the certificate This person told that already the reply had been sent to Coimbatore airport and was not ready to explain further question of Prosecution witness.

CO cross examined all three Prosecution witnesses. But in his cross examination nowhere it seems that charges on him is not true.

Their deposition in brief is recorded in the Sheet dated 14/15 Sept 2023

The written statements of the three Prosecution Witnesses who appeared during the inquiry proceedings for their depositions are placed in the enclosed Folder No. 3 bearing No. PW-1, PW-2 and PW-3.

After all the documents were taken on record and the deposition of the all the Witnesses was complete, both the P.O. and the CO were advised to submit their briefs so that the same could also be taken into consideration while finalizing the report. Part of the delay in submission of the Inquiry Report was also on account of late submission of these briefs by the PO and the CO The briefs submitted by the PO and the CO are placed in the enclosed Folder No. 4

VIII. EVALUATION OF EVIDENCE:

In support of allegations, the Presenting Officer had produced all the listed documents indicated in Annexure -III of the Charge Sheet which were duly marked and taken on record in the inquiry as Ex-P- 01 to Ex-P-03. These documents have been examined and analysis there on has been recorded above where brief description and significance of each of the listed document taken on record has been given.

On the basis of these documents/statements the prosecution has established that the charges leveled against the CO seems true.

IX CONCLUSION & FINDINGS

I have carefully gone through all the Articles of Charges, the listed documents, statement of imputations of misconduct, written briefs of P.O. and CO., evidences, documents, statements and testimony of Witnesses and their cross examination during the inquiry. After examining and going through in detail all the above listed documents, evidences and statements of witnesses and submissions made during the hearings by the PO, CO and the Prosecution Witnesses, I have come to the conclusion that the Charges leveled against CO seems true therefore my findings are as under:

Article of Charge 1 - PROVED."

7. Thereafter, the Disciplinary Authority provided a copy of inquiry report vide memorandum dated 29.12.2023 to which petitioner has submitted reply and the Disciplinary Authority by order dated 10.05.2024 finds that charges levelled against him was rightly found to be proved and thereby imposed a penalty of 'Removal from service which shall not be a disqualification for future employment', in exercise of power conferred vide Regulation 28 of AAI Employees (Conduct, Discipline & Appeal) Regulations, 2003.

8. The petitioner submitted an appeal before the Appellate Authority, however, it

was dismissed by an order dated 16. 01.2025.

9. Learned counsel for petitioner has submitted that due process of disciplinary inquiry was not followed. The petitioner was provided only 7 days time to submit his reply. The inquiry has proceeded on basis of such documents, which were never confronted to him and explanation made by him was not considered. The experience certificate issued by M/s ZSSPL was verified. The inspection conducted by respondent at the office of M/s ZSSPL was an ex-parte inspection. The absence of details of salary received from M/s ZSSPL in Income Tax Return of relevant years could not be considered adverse to petitioner since it may be an error since he was not well versed about Income Tax Rules.

10. Per contra, learned counsels for respondents on basis of materials and documents available on record submitted that principle of natural justice were substantially followed. Petitioner has for the first time produced the experience certificate issued by M/s ZSSPL when he has applied for post of Manager (Commercial) and it was never disclosed on earlier occasion when he has applied in the same institution i.e. Airport Authority of India for the post of Junior Executive (Commercial). The petitioner was granted ample opportunity of cross-examination which he has availed also, therefore, orders impugned are justified. There is no legal error in decision making process. The punishment is not shockingly proportionate, therefore, this writ petition may be dismissed.

11. Heard counsel for parties and perused the record.

12. Before considering rival submissions, few paragraphs of judgment passed by Supreme Court in The State of Rajasthan and others Vs. Bhupendra Singh, 2024 SCC OnLine SC 1908 being relevant are mentioned hereinafter :-

"23. The scope of examination and interference under Article 226 of the Constitution of India (hereinafter referred to as the 'Constitution') in a case of the present nature, is no longer res integra. In State of Andhra Pradesh v. S Sree Rama Rao, AIR 1963 SC 1723, a 3-Judge Bench stated:

'7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have

disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.'

(emphasis supplied)''

13. Petitioner is an alumni of a very prestigious institution of this country, therefore, he ought to have been a bonafide person that for purpose of procuring appointment, he would not have mislead his employer. The allegations against applicant are very serious in nature that he has produced a fake experience certificate from M/s ZSSPL to get appointment.

14. On basis of record, it could be very safely concluded, that the petitioner was granted full opportunity to place his case during inquiry. He has cross-examined witnesses at length, therefore, there is no error in decision making process. Consequently, the Court is left with only consideration whether it was a case of no evidence or not. As referred in The State of Rajasthan and others (supra) that adequately and reliability of evidence can not be look into. In this regard, the Court takes note of the following circumstances :-

(a) The petitioner has not submitted experience certificate from M/s ZSSPL when he was initially appointed as Junior Executive Commercial at Vadodara Airport on 19.01.2017 and for the first time, it was produced when he has applied subsequently for the post of Manager Commercial in the year 2018.

(b) The proceedings were initiated on basis of anonymous complaint and that experience certificate was false. A verification report was sought from M/s ZSSPL, which has verified, however, in order to further verification, one of witnesses has visited the office of M/s ZSSPL and surprisingly it was found that it was one room office, having minimal staff of one or two persons, therefore, there was a substance in complaint that experience certificate issued was not genuine i.e. petitioner may have not worked with said company or existence of such company was under dispute.

(c) As referred above, petitioner has examined the said witness at length. A copy of which is annexed along with supplementary affidavit, however, there was no question about inspection of office of M/s ZSSPL, therefore, the said fact remained uncontroverted i.e. proved.

15. In above background, there are other adverse factors against petitioner also such as petitioner was not able to show mode of salary drawn from M/s ZSSPL

for five years. The petitioner has admittedly not shown his salary from M/s ZSSPL in Income Tax Returns and explanation that he was not aware about income tax law was rightly not accepted since the petitioner is not a layman. He is graduate from a very prestigious institution. The Court is of opinion that since there is no error in decision making process and since the impugned order was passed on legal evidence, no interference is warranted.

16. In the aforesaid circumstances, taking note of limited scope available with this Court to interfere with disciplinary proceedings, no case is made out to cause interference in the impugned order of punishment.

17. Accordingly, present Writ Petition is dismissed.