

(2015) 07 MP CK 0028

In the Madhya Pradesh High Court

Case No : Writ Petition Nos. 2160 and 3726/15

Dharmendra Sharma and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 09-07-2015

Acts Referred:

Citation : (2015) 07 MP CK 0028

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : D.P. Singh, for the Appellant; Praveen Newaskar, G.A., Advocates for the Respondent

Final Decision : Allowed

Judgement

Sujoy Paul, J.—This order will dispose of W.P. No. 2160/15 and W.P.3726/15.

Since matters are similar in nature, same were heard on the joint request of the parties.

Facts are taken from W.P. No. 2160/15.

2. The undisputed facts are that the petitioner submitted his candidature for the post of Patwari in the Patwari Selection Examination, 2008. The petitioner's position was at No. 115 in the waiting list (UR). The petitioner was sent for first counseling followed by Patwari Training at Morena. The petitioner at the time of his selection and training submitted the Diploma of Computer Application from Bhoj University, Bhopal.

3. Shri D.P. Singh submits that pursuant to selection and training, the petitioners were appointed by order dated 20.12.2011 in the pay scale of 5200-20200. The petitioner is working with utmost honesty and devotion. The petitioner was served with a letter dated 14.7.2014 (Annexure P-15). In obedience of the directions contained in the said letter, the petitioner appeared before the authorities and submitted the relevant documents. Thereafter, the impugned

order is passed whereby his appointment and eligibility is cancelled.

4. Criticizing this order, it is contended that before passing this order, the petitioner was not put to any notice, nor principles of natural justice were followed. Petitioners' relevant certificate was got verified by the respondent then only he was appointed. There was no question of re-verification of the said document. The re-verification was also erroneous. The Bhoj University desired the original mark sheet but same was not provided and petitioner's certificate was found to be fake. He relied on *Union of India (UOI) and Others Vs. Jayakumar Parida*, (1995) 9 JT 615 : (1996) 2 LLJ 710 : (1995) 7 SCALE 366 : (1996) 1 SCC 441 : (1995) 5 SCR 695 Supp and *State Bank of India and Others Vs. Palak Modi and Another etc.*, (2013) 136 FLR 303 : (2012) 12 JT 321 : (2012) 11 SCALE 542 : (2013) 3 SCC 607 : (2013) 1 SCT 387 : (2013) 1 SLJ 264 .

5. Shri Newaskar, learned Govt. Advocate relied on various paragraphs of the return and the judgments of this Court in *W.P. No. 4897/12 Pradeep Singh Gurjar v. State of MP and Others*). He submits that the petitioner was put to notice by Annexure P-15. Thus, it cannot be said that the principles of natural justice were not followed. He supported the impugned order.

6. No other point is raised by learned counsel for the parties.

7. I have heard the learned counsel for the parties and perused the record.

8. This is not in dispute between the parties that the petitioner after selection and Patwari training, was appointed by order dated 20.12.2011. The said appointment was on temporary basis. It was made clear that the services can be terminated as per Clause 4 of the appointment order. The impugned order shows that at the time of training, the DCA certificate of petitioner was verified from Bhoj University. Para 1 of the impugned order makes it clear that Bhoj University by communication dated 17.9.2010 verified the said document. In page 2 of the impugned order, the respondents have mentioned that the DCA certificate of 2006 of petitioner was again sent for enquiry to the Bhoj University. The Bhoj University by communication dated 14.1.2015 informed that "not correct as per the tabulation record. Required original marksheet". Thereafter, admittedly, the original mark sheet was not sent for verification to the said University. The learned Collector opined that the certificate submitted by the petitioner is not tallying with the University's record and, therefore, there is no justification to send the original mark sheet. The State Government already relied on the observations made by this Court in the case of *Pradeep Singh Gurjar (supra)*.

9. In the opinion of this Court, it is employer's prerogative to examine the genuineness and correctness of the documents. If there is serious doubt about genuineness of the documents, enquiry can very well be conducted. Even if the said documents were verified at earlier point of time, it can again be verified if there are serious doubts. In the present scenario, the employer cannot be deprived from re-verification of relevant documents. If documents are once

verified, that does not mean that the said verification was always correct. The second or subsequent verification may be interfered with only if the same is done with any malice or oblique purpose or in order to harass the employee. Thus, I am not inclined to interfere with the impugned order on the ground that second verification from Bhoj University was not permissible.

10. The impugned order is liable to be interred with because in the first opinion of the Bhoj University, the petitioners certificate was found to be valid. In the second opinion dated 14.1.2015, the University opined on the basis of tabulation record. However, it desired the original mark sheet. In the fitness of things, the respondents should have provided the original mark sheet to the Bhoj University for proper and ultimate verification. Thereafter only action could have been taken against the petitioners in accordance with law. Despite request of Bhoj University to send the original mark sheet, the respondent No. 2 did not send the said mark sheet.

11. The services of Government employees cannot be terminated on the basis of mere suspicion. The respondent No. 2 opined that the document appears to be suspicious and fabricated. This finding can be arrived at only after obtaining requisite information from the concerned University. Fairness is an integral part of good administration and the requirement of fairness was to send the original mark sheet for verification to Bhoj University and then take action (if required) as per the enquiry report.

12. As analyzed above, the impugned order cannot fulfill the test of fair play in action. It is not in consonance with the principles of natural justice also. Accordingly, the impugned order is set aside. Liberty is reserved to the respondent No. 2 to send the original mark sheet of DCA of the petitioners to the Bhoj University for verification. After obtaining the report from the Bhoj University, the respondents may proceed against the petitioners in accordance with law.

13. Petition is allowed to the extent indicated above. It is made clear that this Court has not expressed any view on the merits of the case.