
(2014) 02 RAJ CK 0069
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4716 of 2010

Kumbha Ram Khatik

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 20-02-2014

Acts Referred:

Citation : (2014) 2 CDR 1041

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Sukhdev Sharma, Advocate for the Appellant; Kuldeep Mathur, Advocate for the Respondent

Final Decision : Allowed

Judgement

Vineet Kothari, J.—The petitioner Kumbha Ram Khatik belonging to the backward class viz. Scheduled Caste preferred this writ petition in this Court on 14.10.2010 aggrieved by the order of dismissal from the services after having served the respondent-AVVNL (earlier RSEB) for a period of almost 38 years having been appointed in the year 1971 as Class IV employee and later on promoted as LDC and then to UDC in the year 1978 and 2000 respectively. His services were terminated on the basis of complaint filed by one Ashok Kumar, who is said to be his relative that the High School certificate of the petitioner from the Central Board of Higher Education, Delhi of the year 1968 is a forged certificate because that Central Board of Higher Education, Delhi was later on found to be derecognized and was a fake Board. On the basis of communication of Central Board of Secondary Education, Delhi, Annex. 11 dtd. 16.5.2005, the respondent-AVVNL appears to have passed the impugned order of dismissal from service vide Annex 9 dtd. 29.5.2009 purportedly holding an ex-parte enquiry in the matter.

2. The learned counsel for the petitioner, Mr. Sukhdeo Sharma urged that the petitioner was not guilty of making any forgery and he had duly passed the High School Examination in the year 1968 from the said Board, which might have been found to be later on de-recognized by the Central Board of Secondary

Education vide their press-note dtd. 15.10.1982 as communicated by the Central Board of Secondary Education, Delhi vide Annex. 11 dtd. 16.5.2005 and with his explanation furnished to the Zonal Chief Engineer of the respondent-AVVNL, he had even furnished an explanation from the said Central Board of Higher Education, New Delhi vide Annex. 8 dtd. 28.5.2009, but without considering the same and without holding a proper enquiry in the matter, the respondent-AVVNL has passed the impugned dismissal order at the fag end of his career just to deprive him of his retiral dues and benefits and the petitioner having rendered unblemished services of more than 38 years to the respondent-AVVNL and working in the lower cadres of the said respondent-Authority, merely on the basis of a complaint made by one Ashok Kumar, he was sought to be dismissed from the services for no fault of his.

3. The learned counsel for the respondents, Mr. Kuldeep Mathur has sought to support the impugned order and urged that the enquiry in the matter was held of course ex-parte against the petitioner since he failed to appear before the Authorities and on the basis of communication Annex. 11 dtd. 16.5.2005 and the press-note Annex. 12 dtd. 5.8.2003 finding that such Central Board of Higher Education, Vachaspati Bhavan, Uttam Nagar, New Delhi was a fake Board and therefore, decognizing its High School Pass Certificate, the respondent-AVVNL has passed the said order.

4. Having heard the learned counsel for the parties, this Court is of the opinion that the present writ petition deserves to be allowed. The reasons are as follows.

5. Even though, it is assumed before the Enquiry Authority for his alleged forged mark sheet or Pass Certificate of Central Board of Education produced before the respondent-AVVNL at the time of his entry in the service in the year 1971, nothing prevented the respondent AVVNL and its authorities who are public authorities and are expected to work in a fair and objective manner from making independent enquiry from the concerned Boards about the status of the Pass Certificates given to the present petitioner way back in the year 1968. Admittedly, no such independent enquiry was made by the respondent-AVVNL or its authorities. They acted merely on the basis of communication Annex. 11 dtd. 16.5.2005 and Press-note dtd. 5.8.2003 declaring this Board to be fake one by the Central Board of Secondary Education, Delhi. The said orders did not even clarify that the Pass Certificate issued way back in the year 1968 will also be treated as null and void. The petitioner might have genuinely appeared in the said examination and passed the said examination at that point of time. Unless by an independent enquiry, it was found that the petitioner acted malafidely and with conscious malafides obtained such forged mark sheet and Pass Certificate at the time of his entry in the service about 38 years back, the severe most punishment of dismissal from service at the fag end of his career was not called for. No such enquiry was apparently made by the respondent-AVVNL and on the basis of such communication, unverified and unauthenticated, they passed the impugned dismissal order Annex. 9 dtd. 29.5.2009. It cannot be lost sight of the

fact that after entry in the service with unblemished service record of the petitioner, he was promoted twice over, firstly from Class IV to LDC and then from LDC to UDC and there is not even a whisper of any other allegation against the petitioner about his service career. The lowly paid persons who start their service career from Class IV are naturally bound to be taken aback by this kind of notice, suspension and dismissal, if their Secondary School Pass Certificate is held to be non est on the basis of such communication without proper verification.

6. Holding of even an ex-parte enquiry in such matter also does not absolve the respondents to comply with the requirement of principles of natural justice. The petitioner obviously gave medical reasons for not appearing before the Enquiry Authority on a given date, but without holding any further enquiry and on the basis of ex-parte communication from the Central Board of Secondary Education, New Delhi, the service career of the petitioner was put to a brutal end by the respondents. This was unfair and uncalled for to say least.

7. This Court is, therefore, of the considered opinion that the impugned dismissal order passed by the respondent-AVVNL deserves to be quashed and set aside. Accordingly, this writ petition is allowed and the impugned dismissal order Annex. 9 dtd. 29.5.2009 is set aside and the petitioner would be nationally reinstated back in service from the date he was suspended and he will be entitled to all the consequential benefits of pay and allowances including retiral dues if he has already achieved the age of superannuation by now. The same may be paid to him within a period of 3 months from today, otherwise the arrears will bear simple interest @9% per annum. No order as to costs. A copy of this order be sent to the parties concerned forthwith.