

(1998) 08 AP CK 0080

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1897 of 1998 and Batch

R. Fakruddin and others

APPELLANT

Vs

A.P.S.E.B., Hyderabad and others

RESPONDENT

Date of Decision : 18-08-1998

Acts Referred:

Citation : (1998) 5 ALD 375 : (1998) 5 ALT 538

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : Mr. V. Venkataramana, for the Appellant; Mr. R. Ramanujam, SC for APSEB, for the Respondent

Judgement

1. The petitioners in these five writ petitions are the employees of the A.P. State Electricity Board. In these writ petitions, they have assailed the validity of the charge sheets issued to them. Since the facts pleaded in all these writ petitions are substantially similar and the questions which fall for consideration are common, the writ petitions were clubbed and heard together and they are being disposed of by this common judgment.

2. The petitioner in WP No. 1897 of 1998 joined the service of the Board as Watchman on 27-6-1986; he was promoted as Helper on 27-10-1988 and he was further promoted as Assistant Lineman on 16-7-1992. The petitioner in WP No. 1929 of 1998 joined the service of the Board as Helper on 1-7-1972; he was promoted as Assistant Lineman on, 8-7-1982 and subsequently he was promoted as Lineman on 8-7-1992. The petitioner in WP No. 1964 of 1998 joined the service of the Board as Helper w.e.f. 31-7-1989 and presently he is serving as Junior Lineman. The petitioner in WP No. 1986 of 1998 joined the service of the Board as Helper on 19-4-1965 and presently he is serving in the Blue Print Section. The petitioner in WP No. 2021 of 1998 joined the service of the Board on NMR basis on 28-10-1969 and at present he is serving as Assistant Lineman.

3. Each of the petitioners was served with the charge-sheet impugned in each of

the writ petitions alleging that when they joined the service of the Board they produced bogus educational qualification certificates and calling upon the petitioners to file their written statements, if any, within the stipulated time. At this stage, the writ petitions are filed praying for quashing the charge-sheets.

4. The learned Counsel for the petitioners submitted that the petitioners joined the service between 1965 and 1986 and if the respondents are permitted to initiate disciplinary proceedings against the petitioners at this distance of time, that will be totally violative of principles of natural justice and, dilute the defence of the petitioners in proving that the school certificates produced by them are genuine and, therefore, the delay itself in initiating the disciplinary proceedings is fatal vitiating the disciplinary proceedings. The petitioners have also contended that under the APSEB Conduct Regulations and Discipline and Appeal Regulations, the concerned Divisional Engineer is the disciplinary authority and since the Board itself has initiated the disciplinary proceedings, the right of appeal available to the petitioners would be lost. Though the aforementioned two contentions are raised in the writ petitions, at the time of hearing Sri Venkataramana, learned Counsel for the petitioners gave up the second contention.

5. In response to Rule Nisi, the respondents have filed counter in each of the writ petitions. In the counter affidavits it is pointed out that only on 25-11-1995 a complaint was received alleging that the petitioners secured the job in the Board by producing bogus educational certificates and in pursuance of that complaint the Board directed the Vigilance Inspector of the respondent-Board at Tirupati to enquire into the allegations and the Vigilance Inspector after necessary enquiry and investigation into the allegations found that the educational certificates produced by the petitioners at the time of joining the service are bogus and in that view of the matter the Board thought it necessary to proceed against the petitioners departmentally under the Conduct and Appeal Regulations. In each of the counter affidavits, the respondents have set out the findings recorded in the preliminary enquiry conducted by the Vigilance Inspector. I do not find it necessary to refer to those findings recorded in the preliminary enquiry for the purpose of deciding these writ petitions.

6. The learned Counsel for the petitioners would reiterate and highlight the same contention taken in the writ petitions. The teamed Counsel would also refer to certain decisions of the Courts to contend that the delay in initiating the disciplinary proceedings is fatal and if the respondents are permitted to conduct disciplinary proceedings against the petitioners, the petitioners would be placed in a disadvantageous position for lapse of time. On the other hand, the learned Standing Counsel for the APSEB would maintain that there was absolutely no lapse on the part of the respondents in initiating the disciplinary proceedings inasmuch as the Board came to know about the fraud committed by the petitioners only on 25-11-1995 when it received the complaint alleging that the petitioners secured jobs in the Board by producing bogus educational certificates

and the Board without any loss of time ordered enquiry and investigation into those allegations by the Vigilance Inspector of the respondent-Board at Tirupati.

7. It is true that the delay in initiating disciplinary proceedings against the delinquent in certain facts-situation may place the concerned delinquent in a disadvantageous situation. It may so happen that by the time the enquiry is initiated the material witnesses may not be available, the relevant documents might have been destroyed or where the defence of the delinquent is essentially based on the memories of the witnesses, with the lapse of time, the memories of the witnesses may fade away and the witnesses may not be in a position to speak to the correct facts. This is the general principle normally applied by the Courts when a plea is taken that initiation of the disciplinary proceedings is vitiated on account of the delay. But that rule cannot be applied in a case where the allegation is that the delinquent obtained public employment by playing fraud. According to the disciplinary authority, the petitioners had produced educational certificates at the time of joining the service not only to show that they know reading and writing in Telugu language, but also in support of their date of birth and the age. The findings recorded in the preliminary enquiry which are set out in the respective counter affidavits indicate that the certificates produced by the petitioners at the time of joining the services are bogus. The charges levelled against the petitioners are very serious in nature touching on moral turpitude of the petitioners. It is not the case of the petitioners that prior to 25-11-1995 any such allegations were levelled against the petitioners and the Board slept over the matter for years. It is of utmost importance in public employment that the persons who seek employment should not practice any form of fraud, and if fraud could be detected and proved at any stage of the tenure, mere delay in initiating disciplinary proceedings cannot be a valid ground for the Court to quash the charge-sheet and if the Court were to do so, the fraudulent and dishonest employees go scot-free and unpunished and fraud will triumph. The Court cannot stall the unearthing of fraud alleged to have committed by the petitioners while securing public employment by quashing the charge-sheets on the ground of delay. On the other hand, detection of fraud and punishing the guilty is a must and imperative to uphold the sanctity of public employment. The fraudulent persons have no place in public employment. Passage of time does not cure vice of fraud.

8. The decisions cited by the learned Counsel for the petitioners in *The State of Madhya Pradesh Vs. Bani Singh and another*, *Mohanbhat v. Y.B. Zala*, 1980 (1) SLR 324 and *Subhas Chandra Basu v. Bank of Baroda*, 1992 (1) SLR 38 are distinguishable on facts. It is not the case of the petitioners that the Board was aware of the alleged fraud committed by the petitioners before 25-11-1995.

9. In the result, the writ petitions fail and they are accordingly dismissed. No costs.