
(2002) 08 MP CK 0050
In the Madhya Pradesh High Court
Case No : Writ Petition No. 218/99

Ten Singh

APPELLANT

Vs

Gas Authority of India Limited

RESPONDENT

Date of Decision : 07-08-2002

Acts Referred:

Citation : (2002) 4 MPHT 231

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : D.K. Katare, for the Appellant; R.D. Jain and S.K. Jain, for the Respondent

Judgement

Rajendra Menon, J.—The petitioner by this petition has challenged the order dated 24-6-1993 (Annexure P-7) and order dated 19-2-1996 (Annexure P-11) by which his services have been terminated.

2. The facts in brief which are not in dispute are that the petitioner was appointed as a Technical Trainee. Subsequently after completion of the training, he was appointed as the Technical Grade-Ill vide Annexure P-2 dated 29-1-1992. The said appointment was on probation and accordingly an agreement was entered into between the petitioner and the respondent. The agreement has been brought on record as Annexures R-1 and R-2 which indicates that initially the petitioner was appointed as a trainee and on successful completion of the training, he was appointed in the regular pay scale for a period of one year. Therefore, his appointment vide Annexure P-2 dated 29-1-1992 was on probation for a period of one year. It was also contained in the agreement that if any declaration is made by the petitioner and it is found that he has made a false declaration, he shall be removed from service.

3. It is the case of the petitioner that while he was working without conducting any enquiry and without giving him any opportunity of hearing, by the impugned order, his services were terminated on the ground that he has given false

information while filling up the "Attestation Form".

4. Being aggrieved by the aforesaid action, he filed a writ petition before this Court being W.P. No. 957 of 1993 and the said petition was disposed by this Court vide order dated 14-7-1995 with a direction that the petitioner should appear before the respondents on 28-8-1995 in the Personnel Department and after hearing him necessary orders shall be passed.

5. In the meanwhile, the petitioner challenged the order by filing L.P.A., before this Court vide L.P.A. No. 206/95. However, during the pendency of the L.P.A. order Annexure P-11 was passed terminating his service. In pursuance to the earlier order passed by this Court in W.P. No. 957 of 1993.

6. It is the case of the petitioner that his name is Ten Singh Sisodiya whereas criminal case is registered against one "Tofan Singh" who is his brother, therefore, the allegations of criminal case is pending against him is not correct.

7. That apart, it is submitted that the criminal case has resulted in acquittal, and therefore, action of the respondent is illegal. It is also submitted by him that the respondent has not considered his case properly and in an arbitrary manner, the order has been passed.

8. In support of his contention, learned Counsel for the petitioner has relied upon various judgments pointing out that the principles of natural justice having been violated, therefore, the termination is illegal, as the criminal case has resulted in acquittal, no action can be taken. Placing reliance on a Division Bench judgment of this Court in the case of Ramratan Yadav v. Kendriya Vidyalaya Sangathan, New Delhi and Ors. 2001(1) MPLJ 205, it is submitted that no action can be taken.

9. The facts of the aforesaid case are refuted by the respondent and it is submitted that the petitioner has submitted a false Attestation Form at the time of employment which has been brought on record as Annexure R-3. At the top of the said Form, a specific "WARNING" has been noted. He has filled in the form in English and in column No. 12 he has stated that he was never arrested, never prosecuted and he was never detained nor any case is pending against him in any Court of law. That apart, in the note (i) of column No. 12, it is specifically mentioned that the "WARNING" on the top of the form should be seen.

10. It is the case of the respondent that vide Annexure R-4, a report has been received from the police authorities that the petitioner has committed offence punishable under Sections 147, 148, 149, 307, 353, 186 and 332, IPC, for which a criminal case is pending against him. He along with others were found indulging in manufacturing and selling illicit liquor and when the competent authorities went to seize and conduct raid in the premises, they attacked the public officers.

11. It is further stated in the report that the actual name of the petitioner is Ten Singh son of Murli Singh but in his locality and house, he is known as "Tofan

Singh" and accordingly in the criminal case also, his name is mentioned Toi'an Singh. But Tofan Singh and Ten Singh are one and the same persons. The respondents have also filed, Annexure R-6, letter of the Chief Executive Officer, Municipal Council along with particulars of the voters list to show that the family of Murli Singh consists of his wife, four sons and four daughters. There is no son as Tofan Singh but the name of Ten Singh son of Murli Singh has been mentioned therein.

12. From the aforesaid, it is indicated that the contention of the petitioner that Tofan Singh is his brother as stated by him in the petition and in his representation is not correct.

13. It is further averred that the petitioner filled an incorrect form, therefore, no relief can be granted to him as the employer does not have any confidence in such an employee who has wilfully suppressed the information and his acquittal is of no sequence in such cases. That apart, the termination is being as per the terms and conditions of the agreement, therefore, also no relief can be granted to the petitioner.

14. I have heard the learned Counsel for the parties and perused the record.

15. As far as the contention of Shri D.K. Katare, learned Counsel for the petitioner that principles of natural justice have been violated is concerned, the same cannot be accepted. After the matter was disposed of by this Court vide order dated 14-7-1995 in W.P. No. 957/93, the records indicate that the petitioner appeared before the competent authority and it was only after giving due opportunity of hearing to the petitioner that the order impugned was passed. That being so, it cannot be said that no opportunity of hearing was accorded to the petitioner.

16. The only ground of attack is that the petitioner is not Tofan Singh but he is Ten Singh. In this regard, Shri Katare places reliance on Annexures P-3, P-4 and P-5 to show that he is Ten Singh Sisodiya son of Murli Singh and not Tofan Singh. The petitioner was involved in a criminal case which was registered in the year 1985 and the certificates Annexures P-3, P-4 and P-5 have been issued after the registration of the criminal case against him. In the criminal case, he has been shown as Tofan Singh son of Murli Singh and the particulars of his family supplied by the Municipal Council vide Annexure R-6 and the voters list indicates that Murli Singh does not have any son named Tofan Singh. Therefore, the contention of the petitioner in the petition that Tofan Singh is his brother cannot be accepted. That apart, in the police report, Annexure R-4, it has been clearly mentioned that Tofan Singh and Ten Singh are one and the same person.

17. In view of the above, it has to be held that the petitioner is Tofan Singh against whom, the said criminal case was pending.

18. Now the only question that requires determination is as to whether in the facts and circumstances of the present case, suppression of information with

regard to the pendency of the criminal case and the subsequent acquittal of the petitioner entitles him for grant of any relief.

19. A perusal of the Attestation Form and the other documents on record including the agreement and the appointment orders and the signature of the petitioner in these documents indicates that the petitioner knew English. He has filled the form in English and has also affixed his signature in English. It is not his case that he does not know English and filled in the form without knowing the contents therein. The form, Annexure R-3 starts with a "WARNING" and has filled the form knowing the same and it has been categorically stated by him that he was never arrested and he was not prosecuted nor any case is pending against him. This information, is therefore, clearly incorrect and the petitioner has suppressed these facts from the employer.

20. The question of identical in nature was considered by the Supreme Court in the case of Sanjay Kumar Bajpai v. Union of India and Ors., 1997(1) SLR 803 and the Supreme Court on consideration of the facts had come to the conclusion that discharge of a person from service on the ground of false statement in the enrolment form was held to be justified and no interference was made in some what similar situation.

21. The aforesaid judgment of the Supreme Court has been considered by this Court in Rajendra Kumar Pate v. Union of India and Ors., 1996 MPLJ 580, and this Court after considering the same has come to the conclusion that the principles of natural justice are not attracted in the case and it would not serve any purpose. After considering the totality of the facts and circumstances of the case and in view of the judgment of the Supreme Court in this regard, it was held that the petitioner got himself enrolled fraudulently by concealing the facts. That being so, the petition was dismissed and no relief was granted to him.

22. Present is also a case identical on facts because by concealing the relevant information, the petitioner has got himself appointed. May be if the petitioner has disclosed the correct facts, the respondents would not have considered him suitable for appointment. That apart, in the present case, the offence complained of against the petitioner is of very serious in nature.

23. Reliance made by the petitioner on a Division Bench decision of this Court in Ramratan Yadav (supra) will not apply in the facts and circumstances of the present case because the case of the employee in that case was that he do not understand English, therefore, he had made the entries without knowing the consequences thereof. That apart, the Division Bench in Paragraph 7 of the judgment has come to the conclusion that because the employee was not understanding English and as the criminal case was not of serious in nature, relief was granted to the petitioner in that case.

24. The facts in the present case are entirely different. The petitioner, from the records, it is clear that understood the contents of the Attestation Form. He has filled the same in English and affixed his signature in English. That apart, the

offence against the petitioner was of very serious in nature and merely because he has been acquitted in the same will not entitle him to claim any benefit, because he has concealed the vital information from the employer and if the petitioner had informed about the same, the things would have been different. In the light of the specific "Warning" indicated in the Attestation Form, the employer has to keep a person in whom he has confidence. A person, at the very first instance submits misrepresentation of facts and plays fraud with the employer cannot be imposed on employer on the ground that he has been subsequently acquitted in the criminal case. Termination, in such cases is not because of the involvement of the person in the criminal case but the termination is because of concealment of vital information and misrepresentation which is an act of fraud and the petitioner himself responsible for the same. A person who is employed should first of all win the confidence of the employer. No employer will like to keep an employee who has committed fraud/misrepresentation on them for the purpose of seeking employment.

25. In the facts and circumstances of the present case, it is not a fit case where, it can be said that the respondents have acted in violation of the principles of natural justice. From that angle, the action is not unreasonable or arbitrary. On the contrary, the attitude of the petitioner himself disentitles him from claiming any relief from this Court in exercise of its discretionary jurisdiction in the absence of there being any violation of statutory rule, regulation or mandatory provision.

26. In the present case, the petitioner has not only concealed the facts and submitted false information but when he was caught he had come up with a totally false case indicating that he is not Tofan Singh and the criminal case is not pending against him but Tofan Singh is his brother. This defence of the petitioner is also false. The records indicate that Ten Singh and Tofan Singh are one and the same person and there is nothing on the record to disbelieve the report submitted by the police authorities on the basis of the enquiry conducted by them. All these renders the petitioner disentitled to claim any relief from this Court. In this regard, the petitioner in ground (C) has stated that he has six brothers and one of his younger brother is called Tofan Singh in the family name. This was his defence before the respondent/employer also. But this is found to be factually incorrect on the basis of the report of the police authorities and the documents submitted by the Municipal Council with regard to particulars of the petitioner and his family members.

27. Considering the aforesaid, I am not inclined to grant any relief to the petitioner. The petition is accordingly dismissed.

Parties to bear their own costs.