

(2008) 03 DEL CK 0053

In the Delhi High Court

Case No : LPA 84 of 2008

Ved Vrat Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-03-2008

Acts Referred:

Citation : (2008) 03 DEL CK 0053

Hon'ble Judges : Dr. M.K. Sharma, C.J.;Reva Khetrapal, J

Bench : Division Bench

Advocate : Abhay Kumar and Rajesh Anand, for the Appellant; Rajat Arora, for the Respondent

Final Decision : Dismissed

Judgement

Mukundakam Sharma, C.J.

CM No. 2764-65/2008 (exemption)

Allowed, subject to just exceptions.

LPA No. 84/2008 and CM No. 2763/2008 (delay)

1. This appeal is directed against the order dated 23rd November, 2007 whereby the learned Single Judge upheld the award dated 5th October, 2005 passed by the Industrial Tribunal cum Labour Court - II, New Delhi.

2. The appellant, while seeking employment in the Bank of India (respondent No.3 herein) as subordinate staff (sepoy), submitted an educational certificate dated 24th June, 1970, wherein his date of birth was shown as 1st December, 1954 and his roll number was shown as 17170. On the basis of the aforesaid certificate exhibiting age of the appellant, the Bank of India found him eligible and appointed him in the Sub-Staff Cadre with effect from 11th February, 1980. The aforesaid certificate was sent for verification, subsequent to which a report was received that the said certificate was fake and that the information regarding the age of the appellant provided therein was false. Consequently, a

departmental inquiry was initiated against the appellant and a charge sheet dated 20th July, 1993 was issued to him on the ground that he had submitted a false and doctored certificate as proof of age in order to get employment in the bank. In the aforesaid departmental inquiry instituted against the appellant, the charges leveled were found to be proved. Consequently, an order was passed by the bank dismissing the appellant from service effective from 27th December, 1996.

3. Pursuant to the said order passed, an industrial dispute was raised by the appellant, which was referred by the Central Government to the Industrial Tribunal cum Labour Court on the following terms:

Whether the action of the General Manager, Zonal Office, Bank of India, Connaught Place, New Delhi and the Branch Manager, Bank of India, Chitranjan Park, New Delhi in dismissing from services of the bank to Shri Ved Varat Singh, Ex. Subordinate Staff w.e.f. 27.12.1996 is justified, valid and reasonable? If not, what relief and benefits he is entitled to.

4. The Labour Court received pleadings filed by the parties and thereafter received evidence adduced by the parties. On conclusion of the trial, the Labour Court passed its award dated 5th October, 2005 holding that the appellant had obtained employment with the respondent - bank by submitting a false certificate. The action of the respondent - bank in dismissing the appellant from service was found to be legal and valid.

5. Being aggrieved by the said award passed by the Industrial Adjudicator, writ petition was filed by the appellant. The learned Single Judge considered the contentions raised before him in depth and thereafter passed a detailed speaking order giving cogent reasons for dismissing the writ petition.

6. Being aggrieved by the aforesaid order, the present appeal is now filed by the appellant on which we have heard the learned Counsel appearing for the appellant. Our attention is also drawn to the various documents which are placed on record. The educational certificate dated 24th June, 1970 was submitted by the appellant while seeking employment with the bank. So far that aspect is concerned, there is no dispute. In the said certificate, the date of birth of the appellant was shown as 1st December, 1954 and his roll number was shown as 17170. The evidence adduced also establishes that the actual date of birth of the appellant is 15th October, 1949 and that the aforesaid date of birth, which is the actual date of birth of the appellant, was changed to 1st December, 1954 with the mala fide intention of procuring employment in the bank. If the date of birth of the appellant is calculated on the basis of 15th October, 1949, he was over-aged on the date of seeking employment and, Therefore, he resorted to the aforesaid act of forging and fabricating a document so as to lower his age by manipulating his date of birth, in order to obtain appointment in the bank fraudulently and by way of misrepresentation of the date.

7. Counsel appearing for the appellant states that forging a document cannot be

held to be nor even said to be a misconduct in terms of the regulations of the bank. Counsel appearing for the respondents, however, has pointed out to us that forging a document is held to be misconduct under the regulations of the bank. Even otherwise, we believe that a person, who is accused of and is proved to have manipulated and fabricated official records and tried to project an age, which was not the actual age, is guilty of misconduct. Therefore, the Inquiry Officer was justified in returning a verdict of guilt against the appellant, holding that the appellant was guilty of misconduct, which decision the learned Industrial Adjudicator as also the learned Single Judge have upheld.

8. The aforesaid findings of the inquiry and the order passed by the disciplinary authority and the learned Single Judge are findings of fact and rather concurrent findings of fact. We are not inclined to interfere with the aforesaid findings of fact in exercise of our appellate jurisdiction. The appeal has no merit and is dismissed.