

Sh. Ram Kumar Vs. Lt. Governor, G.N.C.T.D. and ors.

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Court : Delhi

Decided On : Aug-11-2006

Reported in : 2007(94)DRJ133

Judge : Manju Goel, J.

Appeal No. : Writ Petition (Civil) No. 1604/2003

Appellant : Sh. Ram Kumar

Respondent : Lt. Governor, G.N.C.T.D. and ors.

Advocate for Def. : D.S. Chauhan, Adv.

Advocate for Pet/Ap. : J.K. Das, Adv

Disposition : Petition dismissed

Judgement :

Manju Goel, J.

1. This writ petition seeks quashing of orders dated 14.9.2000, 7.2.2001 & 6.11.2001 whereby the petitioner was removed from his service with the respondent and his appeal and revision were dismissed by the appellate authority.

2. The petitioner was a muster roll employee on daily wages being appointed on 15.5.1984 by the Chief Engineer (Slum), Delhi Development Authority (in short

`DDA'). Subsequently on account of regularization of the employees of the muster roll the petitioner was appointed for the temporary post of work-charged establishment in the pay scale of Rs.800-15-1010-EB-20-1150 with all other service benefits. At the time he was regularized he was required to file essential documents including school leaving certificate etc. The petitioner produced a school leaving certificate issued by the Principal, SGTB Khalsa Boys Senior Secondary School, Dev Nagar, Delhi and a caste certificate issued by the SDM, Karol Bagh. Subsequently it was discovered by respondent Nos. 2 & 3 that the school leaving certificate was bogus and the caste certificate had been acquired by furnishing wrong information to the office of SDM. A charge-sheet was issued to the petitioner and during the enquiry that followed the petitioner admitted the charge of producing false and bogus certificates regarding his caste and educational qualification. Thereafter a notice to show cause was issued suggesting removal of the petitioner from service. The petitioner was thereafter removed from service. His appeal and subsequently his review application were also rejected. Hence the writ petition.

3. It is contended on behalf of the petitioner that although the petitioner has produced two false/fake certificates that should not have been treated as such a grave misconduct as to remove him from service. It is submitted that the punishment to remove was so utterly disproportionate to the misconduct that it shocks the conscience of the court. It is contended that neither the caste certificate nor the educational certificate were at all material for the employment of the petitioner who was only to be appointed as a work-charged employee without the benefits of future promotion etc. According to the petitioner's counsel no minimum qualification for the job nor any caste certificate were at all required for converting the petitioner from muster roll to a regularized work-charged employee.

4. On behalf of the respondents it is submitted that the offence was grave enough to invite the punishment of dismissal. Two judgments have been cited by the respondents. The first judgment is of *Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav* : (2003)11LLJ523SC in which the petitioner had submitted incorrect informations and had taken the plea that he did not understand the question which was in English. The Supreme Court disbelieved this theory of the petitioner not

understanding English and therefore giving wrong information. The second plea of that petitioner was that the concealment was about pendency of a criminal proceeding and that the offence in which the petitioner was involved did not involve moral turpitude and, therefore, were not of any consequence in appointment. The Supreme Court's opinion on the aspect of the importance of the mis-declaration or suppression was as under:

12. The object of requiring information in columns 12 and 13 of the attestation form and certification thereafter by the candidate was to ascertain and verify the character and antecedents to judge his suitability to continue in service. A candidate having suppressed material information and/or giving false information cannot claim right to continue in service. The employer having regard to the nature of the employment and all other aspects had discretion to terminate his services, which is made expressly clear in para 9 of the offer of appointment. The purpose of seeking information as per columns 12 and 13 was not to find out either the nature or gravity of the offence or the result of a criminal case ultimately. The information in the said columns was sought with a view to judge the character and antecedents of the respondent to continue in service or not. The High Court, in our view, has failed to see this aspect of the matter. It went wrong in saying that the criminal case had been subsequently withdrawn and that the offences, in which the respondent was alleged to have been involved, were also not of serious nature. In the present case the respondent was to serve as a Physical Education Teacher in Kendriya Vidyalaya. The character, conduct and antecedent of a teacher will have some impact on the minds of the students of impressionable age. The appellants having considered all the aspects passed the order of dismissal of the respondent from service. The Tribunal after due consideration rightly recorded a finding of fact in upholding the order of dismissal passed by the appellants. The High Court was clearly in error in upsetting the order of the Tribunal. The High Court was again not right in taking note of the withdrawal of the case by the State Government and that the case was not of a serious nature to set aside the order of the Tribunal on that ground as well. The respondent accepted the offer of appointment subject to the terms and conditions mentioned therein with his eyes wide open. Para 9 of the said memorandum extracted above in clear terms kept the respondent informed that the suppression of any information may lead to

dismissal from service. In the attestation form, the respondent has certified that the information given by him is correct and complete to the best of his knowledge and belief; if he could not understand the contents of column Nos. 12 and 13, he could not certify so. Having certified that the information given by him is correct and complete, his version cannot be accepted. The order of termination of services clearly shows that there has been due consideration of various aspects. In this view, the argument of the learned Counsel for the respondent that as per para 9 of the memorandum, the termination of service was not automatic, cannot be accepted.

5. A subsequent judgment cited with similar view expressed is that of A.P. Public Service Commission v. Koneti Vekateswarulu and Ors. 2005 AIR SCW 5175. The Supreme Court held that the Explanation that the information was irrelevant and emanated from inadvertence was unacceptable and that a person who obtained the employment by false pretense does not deserve any public employment.

6. On behalf of the petitioner it is submitted by Mr. J.K. Das that the petitioner is doing a minimal kind of a job whereas the employee involved in the case of Kendriya Vidyalaya Sangathan (Supra) was a teacher. The question of character, it is submitted by him, was very important for the teacher and not so important for the present petitioner. I have given a careful thought to the proposition made by Mr. Das. I am, however, unable to agree with him. For any public employment character should be a basic requirement. The propensity displayed by the petitioner in not only giving false information but also procuring false certificate by defrauding other authorities is highly serious. Whether or not the particulars led to his appointment is not a material consideration. It is the choice of the employer as to whether he is willing to keep on its roll persons who are willing to play deceit or make false declaration. The court cannot impose upon the employer the employee who admittedly has adopted unfair means and made false declarations under his own attestation. I do not think that the punishment is so disproportionate to the offence that it shocks the conscience of the court.

7. The writ petition, therefore, has no merit and the same is accordingly dismissed.

