

Dinesh Chandra Sharma Vs. State

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Court : Rajasthan

Decided On : May-21-1996

Reported in : 1996(3)WLC206; 1996(1)WLN426

Judge : N.K. Jain, J.

Appeal No. : S.B.C.W. Petition No. 2153 of 1993

Appellant : Dinesh Chandra Sharma

Respondent : State

Disposition : Petition dismissed

Judgement :

The Mathili Vishwa-Vidhyapeeth Central University, Darbanga (Bihar) has categorically informed vide letters Anx. R/1 and R/2 that the degree obtained by the petitioner is forged one and that documents i. e. degree and marksheet possessed by the petitioner are not related to them. The petitioner has not been able to show before me that the same is genuine one. Therefore, it cannot be said that the respondents have committed any illegality in terminating the services of the petitioner vide Anx. 10 dt. 11.3.1993 and under the facts of given case it was not necessary to follow the principles of natural justice

Writ dismissed.

N. K. Jain, J.

1. It is alleged that the petitioner applied for the post of Teacher in pursuance of the advertisement issued in the year 1988 and he was selected vide order dt. 8.11.1988. The petitioner was having B. Ed. from the Mathili University, Darbanga through Delhi Vishwa Vidya Peeth, Delhi, to his credit Vide order dt. 11.3.93 (Anx. 10), the services of the petitioner were terminated on the ground that the B. Ed. degree obtained by him is forged and that as per the orders dt.30.11.92 and 23.1.93 the said University has been declared illegal. Hence, this writ petition.

2. The respondents have filed reply stating that the petitioner was selected as Teacher Gr. III but he was terminated from service as the B. Ed. degree obtained by him from Mathili University, Darbanga (Bihar) has been found to be illegal. It has been stated that as per direction of the State Government on verification of the degree obtained by the petitioner from Mathili Vishwa-Vidhyapeeth Darbanga (Bihar) and the Mathili Vishwa-Vidhyapeeth, Darbanga it has been informed vide letter dt. 30.11.92 (Anx. R/I) that the B. Ed. examination conducted by the Delhi Vidhyapeeth have been declared illegal and cancelled. The respondent no. 2 again verified vide letter dt. 15.1.93 along with the copies of marksheet and degree of the petitioner. The authorities of the Mathili Vishwa Vidhyapeeth made endorsement that the documents are not related of Mathili Vishwa Vidhyapeeth, Darbanga vide Anx. R/2.

3. Learned counsel for the petitioner has contended that the Impugned order dt. 11.3.93 terminating the services of the petitioner is illegal as the same has been passed without hearing the petitioner. He has relied on Bhagwan Sahai v. State D.B.C. Spl. Appeal No. 583/95 decided on 20.9.95.

4. On the other hand learned counsel for the respondents submit that the petitioner has been rightly terminated as the petitioner was having forged degree issued in the name of authority who in fact never issued the said degree and, therefore, the principles of natural justice were not required to be followed. He submits that the petitioner can't take advantage of the Division Bench decision as that decision has been given without considering the earlier Division Bench decision rendered in Mahendra Singh and Anr. v. Zila Parishad, Jalore and Ors.

1994 (1) RLR - 721 wherein after considering number of decisions of this Court, it has been held the persons who have secured appointment on the basis of forged documents, cannot invoke extra ordinary jurisdiction under Article 226 even though there may be clear violation of principles of natural justice in dispensing with their services. Mr. Bishnoi submits that when two Division Bench decisions exist on the same point, then the earlier decision will prevail and, therefore, the decision rendered in Mahendra Singh's case (supra) being earlier one will prevail.

5. I have heard learned counsel for the parties and perused the material on record as well as the case law cited at the Bar.

6. Undoubtedly principles of natural justice demand that a person who is holding appointment on substantive basis should be terminated from service after giving him opportunity as audi alteram partem is the cardinal principle but the remedy under Article 226 cannot be invoked by the persons who secured appointment on the basis of forged documents as this Court is not meant to perpetuate illegality.

7. In the instant case, the Mathili Vishwa-Vidhyapeeth Central University, Darbanga (Bihar) has categorically informed vide letters Anx. R/1 and R/2 that the degree obtained by the petitioner is forged one and that documents i. e. degree and marksheet possessed by the petitioner are not related to them. The petitioner has not been able to show before me that the same is genuine one. Therefore, it cannot be said that the respondents have committed any illegality in terminating the services of the petitioner vide Anx. 10 dt. 11.3.1993 and under the facts of given case it was not necessary to follow the principles of natural justice.

8. If the case is considered from other aspect that assuming for the sake of argument that the petitioner was required to be heard in the matter but it has to be shown by him that prejudice has been caused to him. The petitioner has not mentioned that prejudice has been caused to him or he has a genuine degree. Therefore, no difference would be there if he is heard in the matter as in such cases the only consequence is termination. Reference may be made to a decision of the Supreme Court decision rendered in S.L. Kapoor v. Jagmohan : [1981]1SCR746 wherein it has been held as under-

Where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the Court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because Courts do not issue futile writs. Therefore, merely because facts are admitted or are indisputable it does not follow that natural justice need not be observed.

Therefore, on this count also, the petitioner cannot be granted any relief.

9. It is no doubt true that a Single Bench is bound by the decision of other Single Bench otherwise to refer matter to D. B. The Single Bench is also bound by the Division Bench decision but at the sometime if there are two contrary views of the Division Bench, later view will be followed provided earlier view was considered in the later decision. It is settled that if the earlier decision was not brought to the notice of the Division Bench, the earlier Division Bench decision would not last its binding force. Admittedly on the point in issue there are number of decisions rendered in S. B. C. W. Petition No. 379/91 dt. 4.2.1993, Shonkerhal v. State S.B.C.W. Petition No. 387/94 decided on 17.2.1994, Vinod Kumar v. State of Raj. S.B.C.W. Petition No. 1596/94 decided on 18.5.1994 which has been upheld by the division Bench in D. B. C. Special Appeal No. 372/94 decided on 3.5.1995 and OmPrakash v. State decided on 30.8.1995 (1995 (1) RLR 358) and Mahendra Singh and Anr. v. Zila Prishad Jalore and Ors. (1994 (1) RLR 721). The Division Bench decisions rendered in Vinod Kumar's case (supra) and Mahendra Singh's case (supra) were not considered in the decision cited by the learned counsel for the petitioner. Therefore, in view of the decision of this Court in Dewa Ram v. State of Raj. (1983 RLR 754) the legal position is clear wherein Supreme Court decision rendered in V. R.G. & G. O. M.C. & Co. v. State of A.P. : [1972]1SCR346 was considered and their lordships of the Supreme Court has held as under--

It is strange that a co-ordinate Bench of the same High Court should have tried to sit on judgment over a decision of another Bench of that court. It is regrettable that the learned Judges who decided the latter case overlooked the fact that they were bound by the earlier decision. If they wanted that the earlier should be reconsidered, they should have referred the question in issue to a larger Bench

and not to ignore the earlier decision.

10. In view of the above settled legal position, the petitioner cannot take any advantage out of the Division Bench decision cited, since in that case admittedly the earlier Division Bench decisions were not considered. Therefore, the petitioner is not entitled for any relief in this writ petition on the basis of the Division Bench decision.

11. No other point has been pressed before me.

12. In view of what I have discussed above, I am not inclined to interfere in the writ jurisdiction and no relief as prayed for can be granted.

13. Accordingly, the writ petition has no force and the same is hereby dismissed.

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