

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 486 of 2001

Jabalpur, this the 10th day of May, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Bijoy Krishna Saha, son of Shri  
Gopinath Saha, aged about 52 years,  
R/o. 1/6, Type-II, East Land, Khamariya,  
District - Jabalpur (MP),  
Occupation - Service, In Ordnance Factory  
Khamariya, as Ward Master/Hospital,  
Personnel No. 001884 - OF Khamariya,  
District - Jabalpur (MP).      ... Applicant

(By Advocate - Shri A.T. Faridee)

V e r s u s

1. The Union of India,  
through the Secretary,  
Ministry of Defence, New Delhi.
2. Chairman, Ordnance Factories  
Board, Kolkata, West Bengal.
3. General Manager, Ordnance  
Factory, Khamariya, District -  
Jabalpur.
4. Joint General Manager,  
Administration, Ordnance Factory,  
Khamariya, District - Jabalpur.      ... Respondents

(By Advocate - Shri P. Shankaran on behalf of Shri S.A.  
Dharmadhikari)

B R D E R (Oral)

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has  
claimed the following main reliefs :

"(i) to quash the impugned order dated 12.7.2001 and  
this impugned order is to be declared as illegal and  
arbitrary,

(ii) to allow the applicant to be continued on the  
post of Ward Master with all sort of consequential  
benefits and arrears."

2. The brief facts of the case are that the applicant was initially appointed on the post of Dresser in the year 1970 and was posted at Ordnance Factory, Chanda (MS). He was transferred to Ordnance Factory, Khamaria. The applicant was not possessing the matriculation certificate when he was



appointed. Later on the applicant submitted an application to give permission to the authorities concerned to appear in the matriculation examination. A no objection certificate was obtained by him to appear in the examination of matriculation from the Board of Adult Education & Training. The applicant appeared in the examination in the year 1987 and he was declared as successful in the said examination and a certificate to that effect was issued by the Board of Adult Education & Training. The said Board/Institution is registered by the Delhi Government. The applicant was promoted from the post of Medical Assistant to the post of Ward Master vide order dated 10.8.1999. This order of promotion was made effective from 6.8.1999. On the same date another letter was issued to the applicant in which it was mentioned that the said promotion is subject to the matriculation certificate and its genuineness on verification. Its competency was to be ascertained after investigation or enquiry and then it was to be conceded, and it was to be taken on the service record of the applicant but no action was taken by the respondents for several years and when the applicant was promoted on the basis of this certificate, the clause of genuineness or validity of the certificate was added. On 4.11.2000 a letter was issued to the applicant by which the promotion order of the applicant was proposed to be cancelled and in the said letter it was mentioned that the certificate submitted by the applicant issued by the Board of Adult Education & Training is not a genuine certificate. Therefore, promotion given to the applicant is liable to be cancelled. A detailed representation was submitted by the applicant against it. On this representation of the applicant a letter was issued to the applicant on 18.12.2000, by which the applicant was asked to furnish the copies of the relevant four judgments as referred by the applicant in his representation. In pursuance of the said letter the applicant complied with the directions of the authorities concerned.

The impugned order has no reasons, and is illegal and liable to be set aside.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that after the promotion of the applicant the respondents have passed the impugned order without any ground as the certificate i.e. the mark sheet issued by the Board of Adult Education and Training dated 17th September, 1999, shows that the applicant has passed in second division and the Annexure A-4 is the certificate issued by the aforesaid institution in favour of the applicant. This institution is duly registered by the Delhi Government. Our attention is drawn towards the judgment passed in OA No. 1434/1991 of Principal Bench, New Delhi, wherein vide order dated 1.11.1991, the impugned orders were quashed and set aside and the appointment of the applicant was upheld to be legal. He has also drawn our attention towards the judgment of the <sup>Hon'ble</sup> Punjab & Haryana High Court, in the case of Sunita Devi and others Vs. State of Haryana and others, AIR 1997 P&H 84, in which it is held that question of equivalence of course - raised after students had underwent considerable course - admission on basis of certificate issued by Board conducting qualifying examination - no misrepresentation about recognition of course at time of admission - cancellation of admission unjustified. He has also drawn our attention towards the judgment of Hon'ble Punjab & Haryana High Court in the case of Miss. Paramjit Kaur Dahela and others Vs. State of Punjab and others, AIR 1997 P&H 86, in which the Hon'ble High Court has held that admission to MBBB course - lapse of 3 years between filing of writ petition and its hearing - some of petitioners admitted to other course nearing completion of course - it was unequitable to disturb admissions at such belated stage - direction

for creation of additional seats - not within purview of court.

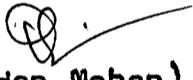
5. In reply the learned counsel for the respondents argued that the Departmental Promotion Committee held on 20.7.1999 found the applicant fit for promotion to Ward Master subject to the condition that promotion will be regulated subject to verification and confirmation that his matriculation certificate is issued by an institution recognised by the Government and competent to issue the same. Thereafter the matter was referred to the Director of Education, Adult Education Branch, New Delhi for clarifying as to whether the Board of Adult Education & Training is a recognised Board/institution vide letter dated 11.12.1999. In reply the Directorate of Education, Adult Education Branch, New Delhi vide letter dated 14.2.2000 confirmed that the Board of Adult Education & Training, New Delhi is not among the list of recognised board/institution by the Directors of Education, New Delhi. He has also drawn our attention towards Annexure R-1 which is a letter dated 16.10.2000. This is a letter issued by the Government of National Capital Territory of Delhi, Directorate of Education, Adult Education Branch, Delhi, wherein it is mentioned that the Board of Adult Education & Training, New Delhi is not among the list of recognised boards/institutions in the country and the certificates awarded by this institutions are not recognised by the Directorate of Education, Delhi, Government of Delhi. Hence it was confirmed by the respondents that on the basis of the mark sheet and the certificate issued by the above institution by the applicant, he got promotion and after verification it was found that the certificates were not genuine and accordingly, the impugned order was passed cancelling the promotion of the applicant. Hence the respondents have passed the impugned order in accordance with law and rule. He further argued that the facts of the OA No. 1434/1991

are different and the applicant cannot get benefit of the order passed in this OA on 1.11.1991, as the genuineness of the alleged matriculation certificate was not considered in the order of the OA. The <sup>other</sup> rulings cited by the applicant are also not applicable in the present case.

6. After hearing the learned counsel for the parties and on careful perusal of the records we find that merely permitting the applicant to appear in the matriculation examination for his future career by the respondents does not entitle him to secure false certificate. Hence the argument advanced by the applicant that his certificate was accepted by the respondents before promoting him, is not tenable. The promotion of the applicant respondents on the same date issued another letter to him about verification of the genuineness of the said certificate and they got both these certificates verified from Delhi and it was found/reported by the concerned authority that the said institution i.e. Board of Adult Education & Training, New Delhi is not among the list of recognised boards/institutions in the country and the certificates awarded by this institution are not recognised by the Directorate of Education, Delhi, Government of Delhi. Hence, it is clear that the mark sheet and certificate of matriculation filed by the applicant were not from recognised institution. Accordingly, they cannot be accepted to be genuine certificates/documents. If the promotion was considered subject to the condition of verification of genuineness of these documents of the applicant, the applicant cannot disbelieve the respondents about the verification of the genuineness of these documents and he cannot claim any benefit on the face of these false and non-genuine documents. So far as the orders passed in OA No. 1434/1991, we find that in this order the validity and genuineness of the alleged matriculation certificate was not considered and the

impugned orders in that OA was quashed on technical grounds. So far as the judgments of the Hon'ble High Court referred to above by the applicant, it is not applicable to the present case. The applicant cannot claim any relief on the basis of a false and fabricated and non-genuine documents. The applicant cannot take this plea also that the verification was got done by the respondents at this belated stage because any fraud and fabrication can be detected at any stage even such as promotion after lapse of time. A person cannot take benefit on a false and fabricated document. Thus the impugned order passed by the respondents is neither irregular or illegal and the same also do not need any interference from the Tribunal.

7. Hence, we find that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

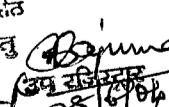
  
(Madan Mohan)  
Judicial Member

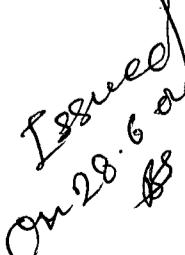
  
(M.P. Singh)  
Vice Chairman

"SA"

मृत्युक्ति सं. ओ/न्या..... जबलपुर. दि.....  
परिविधि वाची विवा -  
(1) श्रीम. उमा चंद्रलाल चार राजेश्वर, जबलपुर  
(2) आंकुश भी/शीर्जी/व्हु ..... के कानूनसल  
(3) प्रत्यार्थी श्री/श्रीमती/कु ..... के कानूनसल  
(4) रामपाल, योगी, जबलपुर व्यायरीत  
सूचना एवं आवश्यक कार्यवाही देने

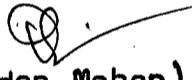
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P. Shankarwar

  
B. B. Biju  
28/6/04

  
Issued  
On 28.6.04

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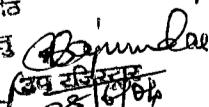
  
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Judicial Member

  
(M.P. Singh)  
Vice Chairman

"SA"

मृत्युकर्तन सं. ओ/न्या..... जबलपुर. दि.....  
प्रतिनिधि आजो दिना -  
(1) शहिद, उत्तर भारतीय दार नं. 100, जबलपुर  
(2) आंदोलन द्वी/शीर्जी/सु..... के कांडराल  
(3) प्रध्यार्थी श्री/शीर्जी/सु..... के कांडराल  
(4) कांडराल, योगा., जबलपुर व्यापरीठ  
सूचना पुर्व आवश्यक कार्यवाही हेतु

AT Faridpur  
P. Shankar

  
Biju Patel  
28/6/04

Issued  
On 28.6.04