



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



(1) S. B. Civil Writ Petition No. 9408/2011

1. Ashok Kumar S/o Shri Brij Mohan, aged about 36 years, resident of Dinnarpura, Post Katradhal, Tehsil Sikar, District Sikar, earlier posted as Junior Accountant (Probationer Trainee) O/o The Accounts Officer (O&M), Ajmer Vidyut Vitran Nigam Limited, Sikar (Rajasthan).
2. Azad Singh S/o Shri Panne Singh, aged about 42 years, resident of Village Chorari(West), Post Bibasar, Via Nua, Tehsil Nawalgarh, District Jhunjhunu, Posted as Junior Accountant (Probationer Trainee) O/o The Accounts Officer (O&M), Ajmer Vidyut Vitran Nigam Limited, Sikar (Rajasthan).

----Petitioners

Versus

1. Ajmer Vidyut Vitran Nigam Limited through its Secretary (Admn.), Hathi Bhata, Power House, Jaipur Road, Ajmer (Rajasthan).
2. Ajmer Vidyut Vitran Nigam Limited through its Chief Accounts Officer (R&C), Hathi Bhata, City Power House, Ajmer (Rajasthan)
3. Magadh University, Bodh-Gaya through its Vice Chancellor, Bihar.
4. Ram Lakhan Singh Yadav College through its Principal, Anishabad, Patna, Bihar.

----Respondents

Connected With

(2) S.B. Civil Writ Petition No. 11234/2011

Swarth Mal S/o Shri Dhura Ram, aged about 43 years, resident of Village Post Majhau, District Jhunjhunu, earlier posted as Junior Accountant (Probationer Trainee) O/o the Accounts Officer (O&M), Ajmer Vidyut Vitran Nigam Limited, Nagaur (Rajasthan).

----Petitioner

Versus

1. Ajmer Vidyut Vitran Nigam Limited through its Secretary (Admn.), Hathi Bhata, Power House, Jaipur Road, Ajmer (Rajasthan).



2. Ajmer Vidyut Vitran Nigam Limited through its Chief Accounts Officer (R&C), Hathi Bhata, City Power House, Ajmer (Rajasthan)
3. Magadh University, Bodh-Gaya through its Vice Chancellor, Bihar.

-----Respondents

For Petitioners : Mr. Praveen Balwada Advocate with Mr. Aditya Raj Advocate.
Mr. O.P. Jhahria Advocate with Ms. Anu Joshi Advocate.

For Respondents : Mr. Abhishek Sharma Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

REPORTABLE

RESERVED ON :: 20.08.2025

PRONOUNCED ON :: 29.08.2025

1. Since common facts and question of law are involved in both the writ petitions, therefore, they were heard together and are being decided by this common judgment.
2. For the sake of convenience, facts stated in Writ Petition No. 9408/2011 are being taken into consideration.
3. The petitioners have challenged orders dated 14.07.2011 passed by the Secretary (Administration), Ajmer Vidyut Vitran Nigam Limited, Ajmer (hereinafter to be referred as 'AVVNL'), whereby services of the petitioners have been terminated on account of qualification documents submitted by them at the time of appointment, being found as false and forged.



4. It is stated that the petitioners owned to their credit qualification of B.Com. The respondent-AVVNL issued advertisement for appointment on the post of Junior Accountant. The petitioners participated in the recruitment process and were ultimately selected and extended benefit of appointment on the aforesaid post as Probationer Trainee vide order dated 17.05.2007.

5. After their joining, the petitioners were directed to submit their original educational documents for the purpose of verification. Accordingly, the petitioners submitted their mark sheets of B.Com. and provisional certificates. It has been contended that thereafter, one notice dated 02.02.2009 was issued by the Chief Accounts Officer, AVVNL, Ajmer mentioning therein that the work performance report with regard to work of the petitioners was not satisfactory, therefore, the petitioners were required to submit explanation as to why their services should not be terminated.

6. As per the petitioners, they submitted reply to the notice and ultimately, their work and conduct was found satisfactory. Hence, vide order dated 24.05.2011, their probation was extended for a period of six months.

7. It has been submitted by learned counsel for the petitioner that the respondent-AVVNL raised objection with regard to genuineness of educational qualification certificates submitted by the petitioners, hence, it got the same verified through Magadh University, from where the petitioners acquired the aforesaid qualification after undergoing the complete education course. As per letter dated 20.10.2008 issued to the Chief Accounts Officer,



AVVNL, Ajmer, the mark sheet and provisional certificate submitted by the petitioners were found to be correct. Despite that, in quite arbitrary and illegal manner by levelling allegations of the certificates submitted by the petitioners as forged and false, their services were terminated vide order dated 14.07.2011.

8. Learned counsel for the petitioner also submits that in respect of self same certificates, one criminal case was also lodged by the respondent-AVVNL by registering FIR. The petitioners were tried by the competent criminal court for committing offences punishable under Sections 420, 467, 468 and 471 IPC. However, they were acquitted of the charges framed against them under Sections 467 and 468 IPC, yet they were convicted for committing offences punishable under Sections 420 and 471 IPC vide judgment dated 21.10.2021. The petitioners filed criminal appeal against the aforesaid judgment, which was allowed by the appellate court vide judgment dated 22.08.2023 wherein the petitioners have been acquitted of the charges framed against them for offences punishable under Sections 420 and 471 IPC also. While indicating the judgment passed by the appellate court, learned counsel for the petitioners submits that the charges framed in the criminal case were in respect of the very same documents, which have been alleged to be false and forged by the respondent-AVVNL while terminating the services of the petitioners. The criminal court has got better means, skill and jurisdiction to assess the veracity of the said documents. Hence, the findings recorded by the criminal courts shall prevail over the erroneous assumption drawn by the Secretary(Administration) of the respondent-AVVNL. Since the competent criminal courts have



acquitted the petitioners from the charges regarding alleged forgery in respect of their educational qualifications certificates, therefore, after acquittal by the criminal courts, no such allegation levelled in the termination orders legally exists and hence, under such circumstances, termination orders passed by the respondents are liable to be quashed and set aside.

9. Learned counsel appearing of the petitioners also emphasised that the petitioners were initially appointed on substantive post after following due procedure of appointment vide order dated 17.05.2007 and by the date of termination of their services, they had completed almost four years of services. Therefore, initially, appointment was on probation of two years and after completion of four years of services, they are deemed to have been confirmed in the service. It has also been submitted that after completion of four years of service in respondent-AVVNL, their services cannot be terminated in a hurried and haste manner without giving any opportunity of hearing or without conducting any regular enquiry in respect of the charges levelled against them, yet in flagrant violation of principles of natural justice as well as disciplinary rules prevailing in respondent-AVVNL, services of the petitioners have been arbitrarily terminated by the respondents. Action of the respondents in issuing such termination orders is absolutely tyrannical and is liable to be quashed and set aside.

10. The respondent-AVVNL filed reply to the writ petitions denying all the allegations made by the petitioners and contending that the petitioners have misrepresented the respondent-AVVNL and obtained appointments on the posts of Junior Accountant by



submitting forged and fabricated documents. It has also been averred that the petitioners have not only submitted false and forged documents, yet had also audacity to submit a forged letter dated 20.10.2008 allegedly issued by Magadh University, in order to show that their certificates have been verified by Magadh University and the same were found to be genuine.

11. It has been submitted by learned counsel for the respondents that the petitioners have not come with clean hands before this Court and have filed the instant writ petition on the basis of incomplete, distorted and incorrect facts. It was submitted that the petitioners were appointed on the post of Junior Accountant vide order dated 17.05.2007 as Probationer Trainee for a period of two years on the terms and conditions mentioned in the appointment order. It was also a condition in the appointment order that the documents submitted by the candidates shall be verified and in case of doubtful or unsatisfactory character of the candidate, service of the probationer trainee will be terminated without giving any notice and incumbent will not be entitled for any kind of compensation.

12. Learned counsel for the respondents highlighted that as per the petitioners, they acquired qualifications from Magadh University, Bodhgaya, Bihar and to verify their qualifications, initially necessary documents in original were asked from the petitioners which were not given at the first instance and were delayed by the petitioners. In order to prove genuineness of their documents, the petitioners also submitted letter dated 20.10.2008 issued by the Controller of Examination, Magadh University allegedly verifying the documents. However, said letter was also



under the clouds of suspicion. Hence, letter dated 20.09.2010 was issued by the respondent-AVVNL mentioning the reasons of suspicion and requesting Magadh University to verify the credentials of the petitioners. In response thereto, Magadh University sent one communication dated 29.09.2010 stating therein that earlier letters dated 20.10.2008, 27.11.2009 and 12.01.2010 were never signed by the Controller of Examination, Magadh University, nor were certified by them. Thereafter, again a request was made to Magadh University for verifying the documents actually submitted by the petitioners for obtaining appointment. Thereafter, one letter dated 18.05.2011 was sent by Magadh University to the respondent-AVVNL informing that letter dated 27.03.2011 has already been sent by it to the concerned college affiliated to the University, namely, Ram Laxhan Singh Yadav College, Anishabad, Patna, Bihar and on receiving information, letter dated 05.07.2011 was issued by Respondent No. 3 mentioning therein that the petitioners never took admission in the aforesaid college, meaning thereby, on verification of educational documents, the same were found false, forged and fabricated. Hence, in view of conditions of appointment order, services of the petitioners were terminated.

13. Learned counsel for the respondents submits that as the question of veracity of educational certificates is directly related with eligibility of the petitioners, hence, treating the petitioners as ineligible and by invoking conditions of the appointment order, impugned termination orders have been passed by the respondents for which there was no requirement of giving any opportunity of hearing or conduction any enquiry.



14. Learned counsel for the respondents further submitted that vide judgments delivered by the criminal courts, the petitioners have been acquitted only by giving benefit of doubt to them and the proceedings conducted by the respondents were altogether different in nature than the proceedings conducted by the criminal courts. Hence, mere acquittal by the criminal courts would not, *ipso facto*, absolve the petitioners from the act of committing forgery and fabrication in educational documents.

15. I have considered the submissions advanced by learned counsel for the parties and carefully examined the record.

16. Perusal of order dated 14.07.2011 would make it clear that the root cause for termination of services of the petitioners is veracity of qualification certificates submitted by the petitioners for the purpose of seeking appointment.

17. It is an undisputed fact that the petitioners were appointed as Junior Accountant on probation vide order dated 17.05.2007 on the terms and conditions mentioned in the appointment order. As per condition no. 15 of the appointment order dated 17.05.2007, the appointees were required to submit certificates and documents with regard to their qualifications in original for verification. As per condition no. 3 of the appointment order, services of the probationer trainees can be terminated at any time by giving one month's notice in writing or remuneration in lieu of such notice, except in the case of misconduct of any description where services could be terminated as per the provisions contained in AVVNL Employees (CC&A) Regulations, 1962 without giving any kind of notice and such persons would not be entitled to any kind of compensation.



18. Under the aforesaid circumstances, if the termination order is examined at the touchstone of conditions referred to in the appointment order, it can be inferred that the orders dated 14.07.2011 appear to be orders for cancellation of appointment order instead of termination of the services of the petitioners.

19. This conclusion can be drawn from fact that the allegation against the petitioners is in respect of possessing such documents with regard to their qualifications, which have not been found to be genuine. It is settled proposition of law that only a person possessing the prescribed and recognised qualification is entitled to be appointed even after successfully securing a place in the merit list of competitive recruitment examination. In case, any candidate does not possess such qualifications, then despite of securing quite higher place in the merit, he/she would not be appointed. Mere appointment of a person, who does not possess the requisite qualification, does not create any vested right to continue such appointment and the employer has right to cancel such appointment order, which was issued under erroneous assumption that such appointee had valid qualification as prescribed under the rules and advertisement. Therefore, even if, such a fact of not possessing requisite qualifications comes into picture even at the later stages, the employer has got sufficient right to cancel the appointment order.

20. Contention of learned counsel for the petitioners is that in view of judgment delivered by criminal courts where the allegations were in respect of very same documents, regarding qualifications of the petitioners and allegations of forgery and fabrication was quite apparent in the court case lodged at the



behest of the respondent-AVVNL. Hence, as per the petitioners, acquittal in such criminal case has got significant meaning even for treating the documents for the purpose of assessing eligibility. Such contention is totally irrational, illogical and misconceived, for the reason that the standard of proof in criminal case is altogether different and is based on the fundamental principle that the prosecution has to prove its case beyond reasonable doubt. In the instant case, the petitioners have been acquitted, not honorably, but by giving them benefit of doubt.

21. Even otherwise, merely the fact that the petitioners have been acquitted from the charge of forgery, fabrication and cheating, would not give rise to any presumption that such acquittal has conferred the requisite qualification and eligibility upon the petitioners to hold the post of Junior Accountant in the office of the respondents.

22. Verification of qualification is altogether different process. In the instant case, the respondents have placed on record sufficient documents to show that in order to enquire due veracity of the qualification documents of the petitioners, they contacted the source from where the said documents alleged to have been issued. The documents/certificates/degrees are stated to have been issued by Magadh University after undergoing studies at Ram Lakhan Singh Yadav College, Anishabad, Patna, Bihar. Whereas, letters issued by Magadh University, Bodhgaya would make it clear that even from verifying from Ram Lakhan Singh Yadav College, Anishabad, Patna, Bihar, it was absolutely clear that the petitioners have never studied in the said college. It was also clarified by the Controller of Examination, Magadh



University that no educational degree whatsoever was ever issued by Magadh University in favour of the petitioners. Thus, it is clear that the qualificational documents submitted by the petitioners were not issued by the University or College and under such circumstances, said documents cannot be said to be valid documents. Such documents cannot confer any eligibility upon the petitioners to seek appointment with the respondent-AVVNL or to continue their appointment treating them to be qualified and eligible persons.

23. The petitioners have knowingly submitted the documents which were proved not to have been issued by the concerned University/College, but unaware of the consequence, they have also shown audacity to submit letter dated 20.10.2008 allegedly issued by Magadh University for verifying the documents of the petitioners. On enquiry, it was also clarified by the Controller of Examination, Magadh University that the said letter does not bear his signatures and was never issued by the University. Under these circumstances, it is clear that even if the effect of the judgments of acquittal delivered by the criminal courts is taken into consideration, then also, by no stretch of imagination, it could be held that such acquittal has also conferred the requisite qualification, eligibility and right upon the petitioners to hold the post of Junior Accountant in respondent-AVVNL as well as to continue on such posts.

24. For the reasons stated hereinabove, an observation was given in earlier paras that the termination order in question is, in fact, cancellation and/or withdrawal of appointment order, which was earlier issued under bonafide belief that the petitioners were



possessing requisite qualifications, whereas on the basis of aforesaid record, it can be safely held that such qualifications were never possessed by the petitioners.

25. As regards the issue with regard to compliance of principles of natural justice, affording opportunity of hearing or conducting regular enquiry before taking impugned action is concerned, it can be gathered from the facts and aforementioned observations that conditions of appointment were founded on the qualification initially reflected by the petitioners, for which, during documents verification, it was found that the petitioners did not possess the qualification, on the basis of which, they applied for the aforesaid post. It is admitted fact of the petitioners that they were given opportunity to produce original documents as well as to show the genuineness of the documents. While availing such opportunity, a fake letter dated 20.10.2008 was also produced by the petitioners in order to show that their documents were correct and genuine. Thus, it cannot be said that the order in question has been issued all of sudden without giving any opportunity to produce the correct documents. Contents of reply as well documents enclosed with the reply would also show that the impugned orders have not been issued merely on the basis of surmises and conjectures and were rather preceded by fact finding enquiry, whereby, the documents in question were got verified through Magadh University and only after receiving proper response from Magadh University, decision to cancel appointments by terminating the services of the petitioners was taken. Assuming for a moment that the aforesaid procedural action does not come within the purview of granting complete opportunity of hearing,



even then, in the facts and circumstances of the case where appointments have been obtained by placing incorrect documents, never issued by the concerned source University or College, the petitioners do not have any vested right to hold the posts or to continue on such posts. Thus, under these circumstances, the petitioners cannot claim any further opportunity of hearing before cancellation of their appointment vide impugned orders.

26. Even otherwise, it was an admitted case of the petitioners that their services were never confirmed by way of passing any specific order of confirmation. Hence, under these circumstances, when the petitioners-probationer trainees are found to be indulged in any activity affecting their eligibility or right to hold the posts, it cannot be said that the impugned orders have been passed in an arbitrary manner.

27. Learned counsel for the petitioners although relied upon the decisions of the Hon'ble Supreme Court in the cases of **Chief General Manager, State Bank of India & Another Vs. Bijoy Kumar Mishra (1997) 7 SCC 550; V.P. Ahuja Vs. State of Punjab & Others (2000) 3 SCC 239** and **Ratnesh Kumar Choudhary Vs. Indira Gandhi Institute of Medical Sciences, Patna, Bihar & Others (2015) 15 SCC 151**, after respectfully perusing the aforesaid decisions, it is sufficient to observe that the aforesaid decisions were delivered by the Hon'ble Apex Court in altogether different context where the question of deemed confirmation of a probationer trainee as well as termination of his/her services before or after completion of probation was being examined by the Hon'ble Supreme Court. In all the aforesaid cases, the issue involved was with regard to entitlement of the



appointee to continue on the post. The facts of the case in hand are altogether different, hence, the aforesaid decisions are not applicable to the instant case.

28. Learned counsel for the respondents, on the contrary, has relied upon the decision of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh & Others Vs. Ravindra Kumar Sharma & Others, (2016) 4 SCC 791**, where, in a case of fraud during verification of documents, following pertinent observations were made by the Hon'ble Supreme Court:

"8. *In Ram Chandra Singh v. Savitri Devi, (2003) 8 SCC 319 it was held thus: (SCC pp. 327-30, paras 15-18, 23, 25-26 & 29)*

"15. ... Fraud as is well known vitiates every solemn act. Fraud and justice never dwell together.

16. Fraud is a conduct either by letter or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of the former either by word or letter.

17. It is also well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against fraud.

18. A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations which he knows to be false, and injury ensues therefrom although the motive from which the representations proceeded may not have been bad.

23. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous.

25. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata.

26. In Shrisht Dhawan v. Shaw Bros. (1992) 1 SCC 534, it has been held that: (SCC p. 553, para 20)



'20. Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct.'

29. In *Chittaranjan Das v. Durgapore Project Ltd.* (1995) 99 CWN 897, it has been held: (SCC OnLine Cal paras 56-57: Cal LJ p. 402, paras 57-58)

'56. Suppression of a material document which affects the condition of service of the petitioner, would amount to fraud in such matters. Even the principles of natural justice are not required to be complied with in such a situation.

57. It is now well known that a fraud vitiates all solemn acts. Thus, even if the date of birth of the petitioner had been recorded in the service returns on the basis of the certificate produced by the petitioner, the same is not sacrosanct nor the respondent Company would be bound thereby.'

9. This Court in *Express Newspapers (P) Ltd. v. Union of India* (1986) 1 SCC 133 at para 119 has held thus : (SCC p. 219)

*"119. Fraud on power voids the order if it is not exercised bona fide for the end design. There is a distinction between exercise of power in good faith and misuse in bad faith. The former arises when an authority misuses its power in breach of law, say, by taking into account bona fide, and with best of intentions, some extraneous matters or by ignoring relevant matters. That would render the impugned act or order ultra vires. It would be a case of fraud on powers. The misuse in bad faith arises when the power is exercised for an improper motive, say, to satisfy a private or personal grudge or for wreaking vengeance of a Minister as in *S. Partap Singh v. State of Punjab* AIR 1964 SC 72. A power is exercised maliciously if its repository is motivated by personal animosity towards those who are directly affected by its exercise. Use of a power for an 'alien' purpose other than the one for which the power is conferred is mala fide use of that power. Same is the position when an order is made for a purpose other than that which finds place in the order. The ulterior or alien purpose clearly speaks of the misuse of the power and it was observed as early as in 1904 by Lord Lindley in *General Assembly of Free Church of Scotland v. Lord Overtoun* 1904 AC 515: (AC p. 695)*

'... that there is a condition implied in this as well as in other instruments which create powers, namely, that the powers shall be used bona fide for the purposes for which they are conferred.'

It was said by Warrington, C.J. in *Short v. Poole Corpn.* 1926 Ch 66, that: (Ch pp. 90-91)

'... no public body can be regarded as having statutory authority to act in bad faith or from



corrupt motives, and any action purporting to be that of the body, but proved to be committed in bad faith or from corrupt motives, would certainly be held to be inoperative."

29. In the case of Union of India Vs. Dattatray & Others Appeal (Civil) No. 1639/2008 decided on 15.02.2008, the Hon'ble Supreme Court, after considering its earlier decisions in the cases of **Bank of India Vs. Avinash D. Mandivikar (2005) 7 SCC 690; Additional General Manager Human Resources, Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde, (2007) 5 SCC 336**, has observed that when a person secures appointment on the basis of false caste certificate, he/she cannot be allowed to retain the benefit of the wrong committed by him/her and his/her services are liable to be terminated.

30. In the case of **Avtar Singh Vs. Union of India & Other (2018) 1 SCC 268**, the Hon'ble Supreme Court has observed that even if an employee is acquitted in criminal case, then also, the acquittal would not confer any vested right for appointment and such consideration has been left open to the employer while addressing the question of his/her fitness/suitability.

31. In the case of **Mohd. Mahroof Vs. Union of India & Others (SWP No. 3497/2014 decided on 12.03.2024)**, Single Bench of the High Court of Jammu & Kashmir and Ladakh at Jammu has held that the law is no more res-integra and stands settled that if an appointment has been secured by a person by misrepresentation or on the basis of forged and fabricated documents, such appointment would be non-est in the eyes of law and does not create any right in favour of person so appointed. It has also been held that suppression of material documents, which



affect the condition of service of the candidate, would amount to fraud in such matter. Even the principles of natural justice are not required to be complied with in such a situation. This Court is in complete agreement with the view taken by Jammu & Kashmir and Ladakh High Court.

32. In the light of foregoing discussions and observations made by the Hon'ble Supreme Court and the High of Jammu & Kashmir and Ladakh in the aforesaid cases, this Court does not find any illegality or infirmity in the impugned orders dated 14.07.2011. Hence, the writ petitions filed by the petitioners are, hereby, dismissed.

33. Pending application, if any, also stands dismissed.

34. Office is directed to place a copy of this judgment on record of connected writ petition.

(ANAND SHARMA),J

MANOJ NARWANI /