

NAVDEEP
v.
STATE OF PUNJAB AND ORS.

MAY 3, 2006

[ARIJIT PASAYAT AND R.V. RAVEENDRAN, JJ.]

Service Law:

Termination—Furnishing of tampered mark-sheet at the time of selection—Enquiry Officer’s report stating that tampering was to project eligibility for selection—Held: Enquiry Officer’s conclusion cannot be termed as perverse to warrant any interference—However, employee having worked for 10 years with blemishless record, Government may consider her reappointment—Administrative action.

Appellant, a Teacher in Government School was terminated from service on the ground that at the time of selection, she had submitted tampered marksheet. She filed Writ Petition before High Court challenging the termination order. An enquiry was conducted. Enquiry Officer submitted a report indicating that while the total marks in the mark sheet remained same, there was reduction of marks in one subject and increase in another and that although she had not obtained any advantage out of it, yet the obvious purpose of tampering was to obtain a certain percentage of marks required for being eligible to get Government job. High Court accepted the report and dismissed Writ Petition. Hence the present appeal.

Disposing of the appeals, the Court

HELD: The Enquiry Officer’s report is based on evaluation of the materials examined by him. There is no dispute raised by the appellant that she had secured 86 marks in Economics and not 124, and similarly in Computer Application she had secured 140 marks and not 102. The obvious purpose for the change, is to project that she had secured certain percentage of marks which made her eligible for admission into the higher courses. The Enquiry Officer’s conclusions cannot be termed as perverse to warrant any interference. That being so, the action taken by the authorities cannot be faulted. But at the same time it is not disputed by the respondents that the

- A** appellant possess the minimum educational qualification for admission even though the tampered marks are out of consideration. A person who resorts to tampering of mark sheet should not be shown any leniency. But considering the fact that she had rendered about 10 years of service without almost any blemish and appears to have otherwise a good academic record, on the peculiar facts of the case, the Government must consider whether a fresh appointment can be given to her ignoring the tampered marks. It is entirely in the discretion of the Government, and no mandate is issued. [753-B-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2447 of 2006.

- C** From the Judgment and Order dated 12.8.2004 of the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 14654/2003.

Sudhir Walia and Mahinder Singh Dahiya for the Appellant.

- D** S.K. Gambhir, A.S. Sonal, Sarup Singh, R.K. Pandey, Arun K. Sinha, Ram Ekbal Roy, Harshvardhan Jha and M.P. Jha for the Respondents.

The Judgment of the Court was delivered by

ARIJIT PASAYAT, J. Leave granted.

- E** Challenge in this Appeal is to the legality of judgment rendered by a Division Bench of the Punjab and Haryana High Court dismissing the writ petition filed by the appellant who had questioned her termination of services by the respondents 1 to 4 i.e. State of Punjab and its functionaries. The order of termination was passed on the ground that she has tampered with her mark sheet to get employment. Enquiry was conducted and it was found that she had tampered with the mark sheet.

Background facts in a nutshell are as follows :

- G** After passing the matriculation examination, appellant joined R.R. Bawa, DAV College for Girls, Batala, Punjab under the Guru Nanak Dev University, Amritsar, (in short the 'University') respondent No.5. In June, 1995 she passed the B.Sc. (Economics), Part III examination securing 418 marks out of 800 marks. On the basis of the mark list submitted, she was admitted to the B.Ed. course under the University and passed the B.Ed. examination also. She was selected as JBT teacher in a Government aided School i.e. Ved Kaur Arya Girls High School, Quadian, Gurdaspur for teaching mathematics. While working as a teacher she completed her M.A. (Economics) examination by

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correspondence course from Punjab University, Patiala. While she was working as JBT teacher a news item was published indicating that 55 teachers obtained fake degrees and their services were terminated. Name of appellant was one of them. The orders of termination were passed on the basis of the orders passed by the Punjab and Haryana High Court in a Public Interest Litigation. Appellant came to know that the allegations so far as she is concerned related to alleged tampering of marks in B.Sc. Part III, that is she had actually secured 86 marks in Economics and not 124, and in Computer Application she had secured 140 marks and not 102 as was shown in the mark sheet produced by her. On verification of the records from the University, it was clear that while her total marks remained same, there was increase in the marks of Computer Application while there was a decrease in marks of Economics. A writ petition was filed challenging the termination of her services. The High Court issued the notices to the respondents and the University. An enquiry was conducted by the University and the Enquiry Officer submitted a report which clearly indicated that there was reduction of marks in one subject and increase in the other. Stand of the appellant was that she has not got any benefit out of the alleged tampering and she was not responsible for the same. But her claim was not accepted. Though the Enquiry Officer found that she had not obtained any advantage out of it, yet the Enquiry Report was to the effect that the obvious purpose for tampering was to obtain a certain percentage of marks required for being eligible for admission. After verifying the documents in question, it was concluded that she had tampered with the mark sheet. It was concluded that there was only one purpose with which the tampering was done i.e. to take advantage in various admissions and selections in a government job as a teacher. The High Court accepted the report and dismissed the writ petition.

Learned counsel for the appellant submitted that the Enquiry Officer had himself come to hold that the appellant has not taken any advantage. In any event she had higher qualification than the minimum educational qualification required for the post of a teacher and, therefore, even ignoring the disputed marks, she was clearly eligible.

In response, learned counsel for the respondents submitted that one who seeks equity to be done must come with clean hands. The various documents examined by the Enquiry Officer clearly reveal that it was appellant herself who was responsible for the tampering. Her so called ignorance and claim of innocence is clearly untenable. When it was noticed that she had been caught, a feeble plea was taken that she did not verify the correctness

A of the marks with the official records. In the records of the College from where the mark sheet was taken, the correct marks were recorded. She had signed in token of having verified the marks.

B The Enquiry Officer's report is based on evaluation of the materials examined by him. There is no dispute raised by the appellant that in fact she had secured 86 marks in Economics and not 124, and similarly in Computer Application she had secured 140 marks and not 102. The obvious purpose for the change as has been rightly noticed by the Enquiry Officer, is to project that she had secured certain percentage of marks which made her eligible for admission into the higher courses. In any event, the Enquiry Officer's conclusions cannot be termed as perverse to warrant any interference. That being so, the action taken by the authorities cannot be faulted.

C But at the same time it is not disputed by the respondents that the appellant possess the minimum educational qualification for admission even though the tempted marks are out of consideration. Learned counsel for the respondent-State is right in his submission that a person who resorts to tampering of mark sheet should not be shown any leniency. But considering the fact that she had rendered about 10 years of service without almost any blemish and appears to have otherwise a good academic record, on the peculiar facts of the case, the Government would do well to consider whether a fresh appointment can be given to her ignoring the tampered marks.

D Considering the peculiar circumstances, the matter may be considered in its proper perspective taking into account the various factors. It is entirely in the discretion of the Government, and there is no mandate issued by us.

E The appeal is disposed of accordingly. No costs.

F D.G.

Appeal disposed of.