



2025:DHC:8095-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7020/2024**

**HARVINDER MALIK**

.....Petitioner

Through: Mr. Krishna Kumar Yadav, Mr.  
Rahul Yadav and Mr. Aakash Malik, Advs.

versus

**UNION OF INDIA & ORS.**

.....Respondents

Through: Ms Archana Gaur, SPC with  
Ms Ridhima Gaur and Ms Ring Baliyan,  
Advs.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

**ORDER (ORAL)**

**11.09.2025**

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1. The petitioner was selected as a Constable in the Railway Police Force<sup>1</sup> in 2014, admittedly after verification of his documents.

2. Eight years thereafter, following disciplinary proceedings which were instituted against the petitioner, on the basis of a complaint made to the respondent by the petitioner's estranged wife, the petitioner's services were dismissed by order dated 11 November 2022 on the ground that he did not possess the prescribed educational qualifications for the post of Constable. Though the order is itself non-speaking, but we may note the charge against the petitioner, as contained in the charge-sheet with which the disciplinary proceedings

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<sup>1</sup> "RPF" hereinafter



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commenced, which read thus:

“Shri Harvinder Malik, son of Shri Inderpal Singh, Com./R.S.B., Ludhiana Post, is alleged to have failed in the High School and Senior Secondary (10+2) examination of the Board of Higher Secondary Education, Delhi. On the basis of fake educational certificates, he has got appointment to the post of Inspector in RPF and in this way he has committed fraud and has violated Rule No. 146.6 (iv) of RPF Rules 1987.”

3. We may note, at this juncture, that the use of the expressions “fake educational certificates”, “fraud” etc., as used in the charge, have neither been established nor proved. Neither can the petitioner be said to have failed in his Senior Secondary (10 + 2) Examination. To that extent, Ms. Archana Gaur, learned SPC for the UOI is also not able to disabuse us.

4. The case of the respondent, was, rather, that the Board of Higher Secondary Education<sup>2</sup>, Delhi, which had issued the higher secondary and intermediate certificates dated 19 June 2008 and 19 June 2010, was dissolved with effect from 1 July 1962. The respondents contend, therefore, that the certificates issued to the petitioner by the BHSE in 2008 (following Class X) and 2010 (following Class XII) were invalid.

5. Aggrieved by his dismissal, the petitioner has approached this Court by means of the present writ petition.

6. We have heard Mr. Krishna Kumar Yadav, learned Counsel for

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<sup>2</sup> “BHSE”, hereinafter



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the petitioner and Ms. Archana Gaur, learned SPC for the UOI at length.

7. Mr. Yadav has drawn our attention to the fact that the qualifications obtained by the petitioner from the institutions under the BHSE, Delhi, stand recognised as eligible qualifications for higher studies by gazette notifications issued by the UP Government for the years 1990 to 1993 on 13 August 1992, for the period 2004-05 *vide* prospectus of the Board of Secondary Education, UP for the said year and by Regulation 17(7) dated 5 March 2014 issued by the Director, Education Department, Uttar Pradesh for the year 2014. As such, he submits that in the years 2008 and 2010, when the petitioner obtained his higher secondary and intermediate certificates, the afore-noted qualifications were genuine and valid qualifications.

8. In any event, submits Mr. Yadav, the petitioner cannot be blamed as he had attended the course and had been issued the certificates. He has also shown us the relevant certificates issued by the BHSE which, at least facially, appear to be genuine.

9. We may reproduce, here, Clause 4 of the Employment Notice No. 1/2011, whereunder the petitioner had applied and was selected for the post of Constable. Clause 4(b) thereof read thus:

“4. **Eligibility**

b) Education: The applicant must have passed the Matriculation or equivalent examination conducted by a recognized Board. Educational qualification obtained from institutions other than a recognized State Board or Central Board should be submitted along with the Government of



India notification declaring that such educational qualification is equivalent to Matriculation/Xth Class for employment under Central Government.”

10. Mr. Yadav has finally drawn our attention to the judgment of the High Court of Jammu and Kashmir in *Ashok Kumar v UOI*<sup>3</sup>. In the said decision, the High Court of Jammu and Kashmir has noted that the references to the afore-noted qualifications in the gazette was only for the purpose of higher studies and could not confer on them any sheen of acceptability so far as eligibility for public employment was concerned. At the same time, the High Court has balanced the equities by recording, in paras 23 and 24, thus:

“23. It is an admitted fact that Ashok Kumar was appointed on 20.03.2013 and when his services were terminated he filed a writ petition and obtained a stay order and as such continued to function till 2017 and after some break has again been directed to be reinstated by the impugned order of the Central Administrative Tribunal. He bonafidely appears to have pursued the course of High School from a school at Gurdaspur without actually knowing whether the Board of High Secondary Education, Delhi, to which it is affiliated is duly recognized or not. Therefore, he cannot be penalized for it when he has otherwise been selected and appointed and at the same time has worked for so many years. The post on which he has been appointed is not a post of skill or a post on which very talented persons are required to function. The aforesaid Ashok Kumar is a 'little Indian' who is educated up to Matriculation from a school which may not be affiliated to a recognized Board and as such, it would not be in the ends of justice to disturb his appointment at this stage. The post on which he is working requires work of menial in nature. Therefore, the Tribunal has rightly provided for his reinstatement but without any right of promotion to any higher scale post unless he improves upon his educational qualification while in service.

24. In the facts and circumstances of the case, after laying down the legal position, that matriculation certificate of the Board of Higher Secondary Delhi, is not of a recognized Board, still we do not deem it necessary to touch the judgment and order of the

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<sup>3</sup> 2021 SCC OnLine J&K 591



Tribunal and dismiss both the petitions with the observation that the aforesaid Ashok Kumar may be allowed to pursue his High School afresh from some institution duly affiliated to a recognized Board, may be by a distance mode after taking appropriate permission from his Employers and acquire the minimum qualification for the post.”

11. Ms. Archana Gaur, learned SPC for the respondents merely reiterates the observations contained in the impugned order of dismissal and submits that as the BHSE, which had issued the higher secondary and intermediate certificates of the appellant had itself been dissolved in 1962, the certificates were of no value. At the same time, she is unable to distinguish paras 23 and 24 of the judgment of the High Court of Jammu and Kashmir in *Ashok Kumar*, from the facts of the present case.

12. Having heard learned Counsel for both sides, we are of the considered opinion that the decision to dismiss the appellant from service, which was taken eight years after he had been selected and joined as Constable, cannot sustain in law.

13. We say so for a variety of reasons.

14. Firstly, the petitioner had been appointed after a due process of document verification. The respondent is expected, therefore, to have satisfied itself that the certificates of the petitioner were acceptable in terms of Clause 4(b) of the advertisement extracted *supra*.

15. The respondent could not, therefore, be permitted to turn the clock back eight years thereafter, acting on the basis of a complaint



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addressed to the respondent by the estranged wife of the petitioner.

**16.** Secondly, the petitioner, clearly, is not at fault. Allegations of fabrication, forgery and fraud have been blindly levelled in the charge-sheet, without the slightest application of mind. The highest case of the respondent could only be that the BHSE stood dissolved with effect from 1 July 1962 and, therefore, the certificates issued on 19 June 2008 and 19 June 2010 were not valid. Insofar as this aspect is concerned, the petitioner would clearly be entitled to the beneficial dispensation accorded by the High Court of Jammu and Kashmir in paras 23 and 24 of *Ashok Kumar*. Inasmuch as the said decision has been relied upon by the respondents themselves in the order of dismissal, they cannot wish away the effect of the aforementioned paragraphs.

**17.** The decision of the High Court is eminently equitable and has clearly been rendered in order to do substantial justice. We express our respectful concurrence therewith, and deem it appropriate to adopt the same view insofar as the case of the present petitioner is concerned.

**18.** Thirdly, there is also substance in the reliance, by Mr. Krishna Kumar Yadav, on the gazette notifications dated 13 August 1992 and 5 March 2014, as well as on the notification issued by the Board of Secondary Education, UP. In all these documents, the qualifications obtained by the petitioner and certified by the certificates dated 19 June 2008 and 19 June 2010 issued by the BHSE are noted as valid qualifications for the purposes of higher studies. If that be so, we do



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not see how the petitioner could have been dismissed from service for having submitted the said certificates at the time of recruitment as Constable with the respondents.

**19.** We, therefore, quash and set aside the order dated 11 November 2022 dismissing the petitioner from service as well as all proceedings following the charge sheet dated 28 June 2022 which was originally issued to the petitioner.

**20.** The petitioner shall be entitled, consequently, to be reinstated in service forthwith.

**21.** We are not awarding any back wages. However, the petitioner shall be entitled to continuity in service as though he had never been dismissed. He shall also be entitled to notional fixation of pay on that basis. Except for back wages, he shall be entitled to all reliefs which would follow on continuity of service.

**22.** The writ petition stands allowed in the aforesaid terms with no orders as to costs.

**C. HARI SHANKAR, J.**

**OM PRAKASH SHUKLA, J.**

**SEPTEMBER 11, 2025/ng**