

CWP-26033-2025

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2025-PHHC-119821



128

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-26033-2025

Date of decision: 03.09.2025

Kuldeep

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Bhim Sain Mittal, Advocate
for the petitioner.

Mr. Piyush Khanna, Addl.A.G., Haryana.

Mr. Sanjeev Kaushik, Advocate
for the respondents-DHBVNL.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to allow the petitioner to join duty in terms of order dated 21.10.2024 (Annexure P-5) passed in CWP-28378-2024 titled- '*Gurmukh Singh vs. State of Haryana and others*' as well as judgment dated 04.03.2025 (Annexure P-6) passed by this Court in CWP-2316-2020 titled- '*Suresh Pal vs. Uttar Haryana Bijli Vitran Nigam Ltd. and others.*'

FACTUAL BACKGROUND

2. Briefly, the facts are that the Haryana Staff Selection Commission, Panchkula, advertised for various posts vide advertisement No.1/2011. Pursuant to the same, the petitioner was selected for the post of Assistant Lineman, as discernible from appointment letter dated 25.10.2012 (Annexure P-12). Accordingly, after getting medically examined, the petitioner joined the said post on 26.10.2012 at Sub Division Panjuana, District Sirsa. However, some



information was supplied to the respondent-Nigam by an RTI activist, claiming that the qualifications of various Assistant Linemen were improper. As such, vide letter dated 30.12.2022, the certificate of the petitioner as well as some other employees were again sent for verification to Director, Government Industrial Training Institute, Lucknow. Consequently, the Principal of the concerned ITI, vide report dated 22.02.2023, submitted that the record of the certificate issued to the petitioner against Roll No.065718 is not available as it was not issued by the institute.

3. Thereafter, the petitioner received a show cause notice dated 09.03.2023 (Annexure P-3) from the office of respondent No.4-XEN on the ground of submitted fake certificates at the time of appointment. The petitioner submitted a reply denying the allegations, however, his services were terminated vide order dated 17.03.2023 (Annexure P-4).

CONTENTIONS

4. Learned counsel for the petitioner submits that the petitioner passed the prescribed test in the trade of Electrician from Government Industrial Training Institute, Kanpur, U.P., pursuant to which he was issued a National Trade Certificate (Annexure P-1) by National Council for Vocational Training. Further, the petitioner has cleared the probation period of 02 years and has been in service for the last 10 years. The certificates of the petitioner were duly verified during the probation period and therefore, respondent-Nigam ought not to have sent them again for verification on the basis of some information supplied by an unreliable source. Further, the services of the petitioner were terminated vide order dated 17.03.2023 (Annexure P-4), which is a major penalty, in contravention of Clause 7 of the Dakshin Haryana Bijli Vitran Nigam Limited Employees (Punishment and Appeal) Regulations, 2006,



as neither a charge-sheet was issued nor was a departmental inquiry conducted, also making the actions of the respondent-Nigam is violative of Article 311(2) of the Constitution of India.

5. Further still, some similarly situated employees had approached this Court vide CWP-28378-2024 wherein, vide order dated 21.10.2024(Annexure P-5), the termination order qua them was stayed and the petitioners therein were directed to join their duty. Further, in CWP-2316-2020 and 37 other connected cases, this Court, vide judgment dated 04.03.2025 (Annexure P-6), directed the petitioners therein to join duty and also granted benefits for the period they were kept out of service. After passing of the said judgment (Annexure P-6), the petitioner moved a representation dated 09.06.2025 (Annexure P-8), however, to no avail.

6. *Per contra*, learned counsel for respondent-Nigam contends that the appointment of the petitioner is vitiated by fraud as he joined service on the basis of forged and fabricated documents. Further, vide report dated 22.02.2023, the Principal of the concerned ITI, has clarified that the institute did not issue a certificate to the petitioner against Roll No.065718.

OBSERVATIONS AND ANALYSIS

7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that the following was observed in order dated 17.03.2023 (Annexure P-4), vide which the services of the petitioner were terminated:

“...The matter was taken with the concerned department for verification of certificates. Accordingly report received from The Principal Govt. ITI Pandu Nagar Kanpur Nagar vide his office memo no 1522/Pre/P/2023/301 dated 22.02.2023 is as under:-

That he actually /Possess the following qualification and will produce all the original certificates in its support.



I. Mark Sheet and Certificates of Sh. Kuldeep S/o Sh. Tek Chand has been received for verification in this Institute and intimated that as per institute record for the year August 2006 to July 2008 having Roll No 065718 Trade Electrician has not taken Training.

ii. He has not passed Industrial Training during July 2008.

iii The institute has not issued the Mark Sheet and Certificate. Hence it is not possible to verify the Mark Sheet.

Keeping in view of above verification report Sh. Kuldeep S/o Sh. Tek Chand served upon a notice vide this office memo no 2374/EPT-2963 dated 09.03.2023 on account of non- fulfilment the essential technical qualification and also for submitting forged/False certificate. Which is serious misconduct on his part and a crime against the Society / Nation.

*In view of verification report received from the Principal Govt. ITI Kanpur Nagar, defence reply not given against notice issued vide memo no 2374 dated 09.03.2023. The team of officers was deputed to Govt. ITI Kanpur Nagar to get verified the documents and report from the above mentioned ITI (submitted by Sh. Kuldeep S/o Sh. Tek. Chand), after received report from the officers team, **It is clear that the technical certificates submitted by Sh. Kuldeep S/o Sh. Tek Chand as mentioned in Table-A at Sr. No 3 and 4 are invalid / Not Genuine. Hence not fulfilled the prescribed technical qualification for the post of ALM(Against Advertisement No. 1/2011, Category No 1) and this makes him ineligible/unfit for the part of ALM.***

As Such the competent authority after applying his mind, has considered the case on the basis of material available on records and it has been observed that the certificate submitted by Sh. Kuldeep S/o Sh. Tek Chand are fake and not found genuine. Sh. Kuldeep s/o sh. Tek chand has not fulfil essential/mandatory qualification for the post of ALM and It has been decided to dispense with his service from DHBVN with immediate effect.

Accordingly the service of Sh. Kuldeep ALM S/O Sh. Tek Chand are hereby dispensed with immediate effect on account of bogus/ fake certificate submitted by him.”(emphasis added)

8.1. At this juncture, it would be profitable to refer to the legal maxims- *nullus commodum capere potest de injuria sua propria* which can be translated to- no man can take advantage of his own wrong, and *sublato fundamento cadit opus* which translates to- when the foundation is removed, the structure falls. Obtaining an appointment or approval on the basis of forged documents amounts to misrepresentation. This Court is of the considered



opinion that an appointment secured by employing fraudulent means renders such recruitment *void ab initio* and therefore, such appointment would not confer any legal rights or entitlements on the petitioner. Clearly, settled law forbids such employees from claiming any subsequent benefits that arise by virtue of employment as no equity or estoppels would operate in his favour. A three-Judge bench of the Hon'ble Supreme Court in ***Jainendra Singh vs. State of U.P. Tr. Prinl. Sec. Home (2012) 8 SCC 748***, has categorically held that no estoppels would operate in favour of those who acquired employment by defrauding the employer. Speaking through Justice Fakkir Mohamed Ibrahim Kalifulla, the following was held:

“31. As noted by us, all the above decisions were rendered by a Division Bench of this Court consisting of two-Judges and having bestowed our serious consideration to the issue, we consider that while dealing with such an issue, the Court will have to bear in mind the various cardinal principles before granting any relief to the aggrieved party, namely:

(i) Fraudulently obtained orders of appointment could be legitimately treated as voidable at the option of the employer or could be recalled by the employer and in such cases merely because the respondent employee has continued in service for a number of years, on the basis of such fraudulently obtained employment, cannot get any equity in his favour or any estoppel against the employer.

(ii) Verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to the post under the State and on account of his antecedents the appointing authority if find not desirable to appoint a person to a disciplined force can it be said to be unwarranted.

(iii) When appointment was procured by a person on the basis of forged documents, it would amount to misrepresentation and fraud on the employer and, therefore, it would create no equity in his favour or any estoppel against the employer while resorting to termination without holding any inquiry.

(iv) A candidate having suppressed material information and/or giving false information cannot claim right to continue in service and the employer, having regard to the nature of employment as well as other aspects, has the discretion to terminate his services. Purpose of calling for information regarding involvement in any criminal case or detention or conviction is for the purpose of



verification of the character/antecedents at the time of recruitment and suppression of such material information will have clear bearing on the character and antecedents of the candidate in relation to his continuity in service.

(vi) The person who suppressed the material information and/or gives false information cannot claim any right for appointment or continuity in service.

xxx

xxx

xxx”

8.2. Further, a two-Judge Bench of the Hon’ble Supreme Court in **Ram Chandra Singh vs. Savitri Devi (2003) 8 SCC 319**, speaking through Justice S.B Sinha made the following observation,

“15. Commission of fraud on court and suppression of material facts are the core issues involved in these matters. 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.

*19. In **Derry v. Peek**, (1889)14 AC 337 : (1886-90) All ER Rep 1 : 58 LJ Ch 864 : 61 LT 265 (HL). it was held:*

"In an `action of deceit the plaintiff must prove actual fraud. Fraud is proved when it is shown that a false representation has been made knowingly, or without belief in its truth, or recklessly, without caring whether it be true or false.

A false statement, made through carelessness and without reasonable ground for believing it to be true, may be evidence of fraud but does not necessarily amount to fraud. Such a statement, if made in the honest belief that it is true, is not fraudulent and does not render the person making it liable to an action of deceit.

*20. In **Kerr on Fraud and Mistake**, at p. 23, it is stated:*

*"The true and only sound principle to be derived from the cases represented by **Slim v. Croucher**, (1860)1 De GF & J 518 : 29 LJ*



*Ch 273 : 2 LT 103 : 45 ER 462. is this: that a representation is fraudulent not only when the person making it knows it to be false, but also when, as Jessel, M.R., pointed out, he ought to have known, or must be taken to have known, that it was false. This is a sound and intelligible principle, and is, moreover, not inconsistent with **Derry v. Peek**, (1889)14 AC 337 : (1886-90) All ER Rep 1 : 58 LJ Ch 864 : 61 LT 265 (HL).. A false statement which a person ought to have known was false, and which he must therefore be taken to have known was false, cannot be said to be honestly believed in. 'A consideration of the grounds of belief', said Lord Herschell, 'is no doubt an important aid in ascertaining whether the belief was really entertained. A man's mere assertion that he believed the statement he made to be true is not accepted as conclusive proof that he did so.'*"

21. In *Bigelow on Fraudulent Conveyances*, at p. 1, it is stated:

"If on the facts the average man would have intended wrong, that is enough."

22. It was further opined:

"This conception of fraud (and since it is not the writer's, he may speak of it without diffidence), steadily kept in view, will render the administration of the law less difficult, or rather will make its administration more effective. Further, not to enlarge upon the last matter, it will do away with much of the prevalent confusion in regard to 'moral' fraud, a confusion which, in addition to other things, often causes lawyers to take refuge behind such convenient and indeed useful but often obscure language as 'fraud upon the law'. What is fraud upon the law? Fraud can be committed only against a being capable of rights, and 'fraud upon the law' darkens counsel. What is really aimed at in most cases by this obscure contrast between moral fraud and fraud upon the law, is a contrast between fraud in the individual's intention to commit the wrong and fraud as seen in the obvious tendency of the act in question."

23. Recently this Court by an order dated 3-9-2003 in **Ram Preeti Yadav v. U.P. Board of High School & Intermediate Education**, (2003)8 SCC 311 : JT 2003 Supp (1) SC 25. held:

*"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 words or letter. Although negligence is not fraud but it can be evidence on fraud. (See *Derry v. Peek*, (1889)14 AC 337:.)*

*In **Lazarus Estates Ltd. v. Beasley**, (1956)1 All ER 341: the Court of Appeal stated the law thus:*

'I cannot accede to this argument for a moment. No court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a court, no order of



a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever;"

In S.P. Chengalvaraya Naidu v. Jagannath, (1994)1 SCC 1 this Court stated that fraud avoids all judicial acts, ecclesiastical or temporal."

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

9.1. Learned counsel for the petitioner has argued that the drill of Clause 7 of the Regulations was not followed, however, these Regulations refer to the procedure that ought to be adopted in the event of any misconduct during service. Since the petitioner obtained employment on the basis of a forged and fabricated certificate, he cannot take shelter of the prescribed procedure to escape accountability as fraud vitiates all. Reliance in this regard can be placed upon the judgment rendered by the Hon'ble Supreme Court in ***Union of India vs. Prohlad Guha 2024 AIR SC 3588***. Moreover, a three-Judge Bench of The Apex Court in ***R. Vishwanatha Pillai vs. State of Kerala, (2004) 2 SCC 105*** while speaking through Justice Ashok Bhan made the following observation,

" 17. The point was again examined by a Full Bench of the Patna High Court in Rita Mishra v. Director, Primary Education, Bihar [AIR 1988 Pat 26 : 1988 Lab IC 907 : 1987 BBCJ 701 (FB)] . The question posed before the Full Bench was whether a public servant was entitled to payment of salary to him for the work done despite the fact that his letter of appointment was forged, fraudulent or illegal. The Full Bench held: (AIR p. 32, para 13)

*"13. It is manifest from the above that the rights to salary, pension and other service benefits are entirely statutory in nature in public service. **Therefore, these rights, including the right to salary, spring from a valid and legal appointment to the post. Once it is found that the very appointment is illegal and is non est in the eye of the law, no statutory entitlement for salary or consequential rights of pension and other monetary benefits can arise. In particular, if the very appointment is rested on forgery, no statutory right can flow from it.**"*



18. We agree with the view taken by the Patna High Court in the aforesaid cases.” (emphasis added)

9.2. Additionally, a two-Judge Bench of the Hon’ble Supreme Court in ***Vijay Kishanrao Kurundkar and another vs. State of Maharashtra and Others 2020 SCC Online 834*** made the following observation,

*“12. The decision in Punjab National Bank must be read in light of these observations by the three-Judge Bench of this Court in Food Corporation of India. **It is trite law that an appointment secured on the basis of a fraudulent certificate is void ab initio.** It is not open to the government to circumvent the existing statutory mandate by indefinitely protecting the deceitful activities of such candidates through the use of circulars or resolutions.” (emphasis added)*

CONCLUSION

10. Public employment opportunities are both rare and highly coveted. Such employees represent the State at all levels, as such it is carries with itself the assurance of stability and dignity. However, given its scarce nature, every such opportunity assumes great significance for aspirants who pursue it with commendable dedication and hope. Therefore, it is of the utmost importance to ensure that the recruitment process remains sacrosanct, free from evils of arbitrariness and laxity. The constitutional values of equality and justice must be clearly reflected in the approach adopted by the concerned State instrumentalities in conducting their recruitment process as any instances of negligence would contribute towards eroding public trust and undermining the integrity of the system itself.

11. In view of the discussion above, the present petition is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

12. However, the fact of the matter is that the certificate of the petitioner was not verified diligently during his probation period by the



respondent-Nigam. Clearly, it was due to the laxity displayed by the concerned employee that the appointment of the petitioner went through in spite of his lack of requisite qualifications, thereby denying the rightful candidate the opportunity of public employment. The fraud indulged in by the petitioner came to light after he had spent 10 years in service of the respondent-Nigam and received all monetary benefits arising therefrom, sponsored by the taxpayer. Further still, in CWP No.22525 of 2025 titled as 'Narayan Singh Vs. Dakshin Haryana Bijli Vitran Nigam Ltd and others' this Court was constrained to note a similar dereliction of duty by the respondent-Nigam as the petitioner therein was appointed as Assistant Lineman with the respondent-Nigam even though his certificate was later found to be forged and fabricated.

13. As such, the Managing Director of the respondent-Nigam is directed to fix responsibility of the employee in-charge of the verification process, with respect to the petitioner and other similarly situated employees, and take appropriate disciplinary action against them for the negligence displayed therein. A compliance report in this regard be filed with the Registry within a period of 08 weeks from receipt of a certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

03.09.2025

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No