

Zora Singh

Vs

Shri J. M. Tandon and Others

Civil Appeal No. 47 of 1967

(J. M. Shelat, C. A. Vaidialingam JJ)

09.09.1970

JUDGMENT

SHELAT, J. -

1. This appeal, by certificate, is directed against the judgment of the High Court of Punjab, dated October, 1966.
2. The appellant, a military personnel attached to the Sikh Regiment at present stationed at Meerut alleged that he was granted a gallantry award under which land situate at Samundri, Lyallpur District, now part of Pakistan, was conferred on him in 1947. He relied on two letters, dated February 14, 1947, and April 10, 1947, said to have been issued by the Deputy Commissioner, Lyallpur to the Tehsildar, Samundri, in which it was said that the said land situate in Samundri had been allotted to him. These letters were said to have been signed by one Hardwari Lall, the Personal Assistant of the Deputy Commissioner, for and on behalf of that officer. The appellant produced copies of these two letters said to have been endorsed to him at the time when the original letters were issued to the said Tehsildar.
3. It appears that after partition the appellant laid a claim for land in lieu of the land at Samundri left by him in Pakistan and was allotted about 26 standard acres of land. The allotment was challenged by respondent 3, who having failed before the deputy Custodian General of Evacuee Property, applied to the Rehabilitation Minister, Government of Punjab. The Minister passed an order, dated April 14, 1960, cancelling the said allotment. The order was totally unauthorised as the Minister had obviously no jurisdiction to pass it. The Chief Settlement Commissioner, instead of implementing it, only ordered that the legal position with regard to the allotment in appellant's favour may be verified. On doing so, the Managing Officer recommended cancellation of the said allotment on the ground that the copies of letter said to have been endorsed to the appellant and which he had produced did not appear to be genuine. The appellant had also produced before the authorities copies of the said alleged original letters, which he claimed were given to him on his application duly attested by the authorities of Lyallpur.
4. On June 30, 1960, the Commissioner cancelled the allotment giving two reasons for his order, (1) that the revenue record of Lyallpur District pertaining to the land said to have been granted to the appellant did not contain any entry of the appellant having taken possession of the said land, (2) that the appellant had failed to produce the original letters of the Deputy Commissioner, Lyallpur to the Tehsildar, Samundri.
5. The appellant filed a writ petition in the High Court which was dismissed by a learned single

Judge. The appellant then filed a Letters Patent appeal which was heard by a Division Bench consisting of Mehar Singh and Mahajan, JJ. The Division Bench felt that the question as to the genuineness of the copies of the said two letters was not expressly raised by Respondent 3 before the Commissioner, that the Commissioner, therefore, could not have gone into that question, and that apart from the said copies said to have been attested by the Lyallpur authorities, the appellant had also produced "the original letters", i.e., copies of the said original letters addressed by the Deputy Commissioner, Lyallpur to Tehsildar, Samundri, and which were endorsed to him. The Divisional Bench found that these had not been examined by the Commissioner. On this consideration it set aside the order of the learned single Judge and allowed the appeal. The penultimate paragraph of the judgment allowing the appeal reads as follows :

"In consequence, the order, dated June 10, 1969, of the Chief Settlement Commissioner is quashed and he is further directed to proceed to decide the case on merits after taking into consideration the original letters produced by the appellant and also on the departmental file. The Chief Settlement Commissioner may also take into consideration the attested copies of those letters now obtained by the appellant from the Deputy Commissioner of Lyallpur."

6. The Commissioner re-heard the entire case, and as directed by the High Court, called for the departmental file and examined the copies of the two letters said to have been sent to the appellant and which had been produced by him before the Deputy Secretary (Rehabilitation) as also the two attested copies which the appellant alleged he had obtained from the office of the Deputy Commissioner, Lyallpur and other evidence on record before him. The Commissioner, however, came to the same conclusion as before and re-affirmed his earlier decision cancelling the allotment in favour of the appellant.

7. The reasons which he gave for his conclusion were :

(a) the list of persons who were given gallantry awards, supplied by the military authorities to the Rehabilitation Department, did not show that the appellant was the recipient of any gallantry award;

(b) in reply to a query by the Rehabilitation Department, the Officer Incharge Records, by his letter, dated December 23, 1960, stated that his records did not show any such gallantry award having been conferred on the appellant;

(c) the Officer Incharge Records, however, addressed another letter, dated February 2, 1961, at the instance of the appellant in which it was stated that the records "for the land allotted to soldier for distinguished services during World War II" were not available in his office but may be available in the office of the respective Deputy Commissioner; according to the Chief Settlement Commissioner, this letter would not mean that the appellant was granted any gallantry award;

(d) neither the Khasra Girdawari nor the Jamabandi of Chak No. 468 at Samundri, not the Patwari's Roznamcha Waqaiati for the relevant period compared at the border mentioned the name of appellant;

(e) on January 15, 1960, the appellant had, in support of this claim, produced before the Deputy Secretary (Rehabilitation) copies of two letters (called original letters by

the High Court) in response to a notice by that officer. At the time of production, the appellant had affixed his signature on those copies so that there could be no dispute as to the identity of the letters produced by him. When he appeared before the Commissioner during the rehearing, the appellant contended that those were not the letters produced by him. Realising the futility of such a contention his counsel frankly conceded that he could not support such a contention;

(f) the appellant's case was that the copies of the two letters produced by him were copies of the original letters addressed by the Deputy Commissioner, Lyallpur to the Tehsildar and which were endorsed to him. The copies produced were dated February 14, 1947, and April 10, 1947. If the appellant's allegation that the copies which were produced by him before the Deputy Secretary on January 15, 1960 were those which were endorsed to him, had any truth, they would have borne the signatures of the said Hardwari Lall, who was said to have signed the said letters for and on behalf of the Deputy Commissioner. But the copies produced by the appellant had the name of Hardwari Lall type-written and not in manuscript. Instead, both the copies had upon them the signatures of someone who called himself a Superintendent and curiously both were dated April 12, 1947. If the copies had been endorsed to the appellant, as he claimed they were, the two copies produced by him would have borne the dates of the original letters, viz., February 14, 1947, and April 10, 1947, and not April 12, 1947. No explanation was forthcoming as to who the person was who had signed as the Superintendent, why the signatures of Hardwari Lall were type-written and why the date April 12, 1947, was written by that person under his signature. The copies produced by the appellant, therefore, could not be copies said to have been endorsed to him by the Deputy Commissioner's office;

(g) the appellant produced before the High Court two copies supposed to be the copies of the original letters and claimed that they were attested by the authorities at Lyallpur. But in the absence of any certificate by the Indian High Commission in Pakistan it was impossible to say whether the copies and the attestation thereon were genuine; and

(h) the copies, on the basis of which the appellant procured the allotment of land, were not genuine, but were forged documents, and therefore, neither the allotment in his favour nor the permanent rights acquired by him thereunder could be sustained.

8. On the Commissioner thus rejecting his case once more, the appellant filed a fresh writ petition in the High Court where he raised three questions. The first was that the High Court had in the earlier writ petition concluded that the said copies were genuine and that the Commissioner, in holding that they were not, had gone beyond the scope of the High Court's order of remand. The second was that that finding in any event was vitiated as there was no evidence before the Commissioner upon which he could hold that the said copies were fabricated documents, that some of the reasons given by him were either extraneous or invalid, and that therefore, his finding was vitiated. The appellant had at first raised only these two contentions. It, however, appears that the Advocate General, who appeared at one stage for Respondent I, agreed that even at that point of time the appellant could lead additional evidence, if he so desired, and prove that he had been granted land for gallantry in the field as was the appellant's case all throughout. In view of this gesture on the part of the Advocate General, the High Court allowed the parties to lead further evidence. The appellant's third contention thereafter was that he had established through the

additional evidence led by him that he had been granted the gallantry award, or in any event, an award for meritorious service in consequence of which land had been allotted to him in Samundri.

9. The High Court turned down the first two contentions outright. So far as the third contention was concerned, the High Court, on assessment of the evidence led before it, rejected that contention also and dismissed the writ petition.

10. Counsel for the appellant raised the very same contentions before us which were raised before the High Court. As regards the first contention the judgement of the Division Bench clearly holds that in its earlier judgement the High Court did not conclude the question of genuineness of the said two copies, and that it remanded the case to the Commissioner only because the Commissioner, while considering the appellant's case, had not called for the record of the Deputy Secretary (Rehabilitation) containing the copies which, according to the appellant, were copies endorsed to him by the Deputy Commissioner, Lyallpur. This is quite clear from the extract from its earlier judgement quoted earlier. There is, therefore, no substance in the first contention. The second contention also was rejected, and in our view rightly. The High Court was right in holding that even if there were, amongst the reasons given by the Commissioner, some which were extraneous, if the rest were relevant and could be considered sufficient, the Commissioner's conclusions, would not be vitiated. The principle that if some of the reasons relied on by a Tribunal for its conclusion turn out to be extraneous or otherwise unsustainable, its decision would be vitiated, applies to cases in which the conclusion is arrived at not on assessment of objective facts or evidence, but on subjective satisfaction. The reason is that whereas in cases where the decision is based on subjective satisfaction if some of the reasons turn out to be irrelevant or invalid, it would be impossible for a superior court to find out which of the reasons, relevant or irrelevant, valid, or invalid, had brought about such satisfaction. But in a case where the conclusion is based on objective facts and evidence, such a difficulty would not arise. If it is found that there was legal evidence before the Tribunal, even if some of it was irrelevant, a superior court would not interfere if the finding can be sustained on the evidence. The reason is that in a writ petition for certiorari the superior court does not sit in appeal, but exercises only supervisory jurisdiction, and therefore, does not enter into the question of sufficiency of evidence. There was, in our view, legal evidence before the Commissioner upon which he was entitled to rest his finding that the copies relied on by the appellant were not genuine.

That takes us to the third contention which is now based on the additional evidence adduced before the High Court. It is amply clear from that evidence that whenever a gallantry award is granted it would be entered in the sheet-roll maintained by the company in which the awardee is serving, and the fact of such an award having been granted would be announced in the Government Gazette. There was no such entry and no such announcement in the Gazette in the case of the appellant. But apart from the gallantry award the military authorities also used to give awards for meritorious service. Realising that the appellant's case for a gallantry award was unsustainable, counsel shifted his case and sought to argue that the appellant had been the recipient of an award for meritorious service and was granted the said land in Samundri in lieu thereof.

12. There are, however, two major difficulties against such a contention. The first is that no record was produced showing such an award for meritorious service although the appellant got an opportunity to lead additional evidence before the High Court and some of the witnesses examined by him were military officers belonging to his company. The second difficulty is that according to the evidence of Lachhman Singh, the Senior Records Officer of the Sikh Regimental Centre of Meerut, whenever an award is given for meritorious service an entry regarding it would be made in the sheet-roll maintained by the company and a medal only, and not, land, is awarded. He was emphatic

that no order withing his knowledge was ever passed during theWorld War II granting land to persons for meritorious service. Further, no award for meritorious service could have been granted to the appellatant. Rule 543 of the Regulationd produced by Subedar Mohan Singh of the Sikh Regimental Centre at Meerut lays down that an award for meritorious service can be

given only if the person to whom it is to be awarded has served for at least 18 years. The award in such a case is in the form of an annuity and not land. The appellatant had not put in 18 years of service but only service for 14 years. That being so, no such award for meritorious service could have been granted to him. He could not produce any record because he could not have been granted such an award in view of the fact that he had not put in the requisite qualifying service. Besides, his service could not have been regarded as meritorious as the record of his service produced by Subedar Mohan Singh revealed that he had been given punishments on as many as seven occasions, some of which were on charges such as theft, insubordination, absentism, etc.

13. On this evidence, as also on the evidence that was before the Commissioner, it is clear that the appellatant was not and could not have been a recipient either of a gallantry award or an award for meritorious service. Nor could he have been granted any land at Samundri in respect of which he had claimed land here after partition. The Commissioner, therefore, was right in cancelling the allotment made in his favour as also the permanent rights acquired by him in consequence of that allotment. The High Court consequently was right in refusing to quash the Commissioner's order and dismissing the writ petition.

14. The appeal fails and is dismissed with costs.

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