

Court No. - 36

Case :- WRIT - A No. - 8549 of 2023

Petitioner :- Smt. Rekha Sharma

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Vikas Mani Srivastava,Manu Khare,Pratap Vikram Singh

Counsel for Respondent :- C.S.C.,Daya Shanker Yadav,Rama Shanker

Hon'ble Manjive Shukla,J.

1. Heard learned counsel appearing for the petitioner and leaned Standing Counsel appearing for the Respondents No. 1 to 5.

2. Petitioner through this writ petition has challenged the order dated 3.04.2023 passed by the District Basic Education Officer, Saharanpur whereby he has directed the Authorized Controller of Bhartiya Adarsh Junior High School Narayanpuri, District Saharanpur, to initiate proceedings as per law and thereby terminate the services of the petitioner. Petitioner through this writ petition has also challenged the order dated 10.04.2023 passed by the Authorized Controller of Bhartiya Adarsh Junior High School Narayanpuri, District Saharanpur, whereby petitioner's services have been terminated.

3. Facts of the case in brief are that an advertisement was published on 15.06.2010 in the newspaper thereby applications were invited for making appointment on the post of Assistant Teacher in Bhartiya Adarsh Junior High School Narayanpuri, District Saharanpur. Pursuant to the said advertisement, petitioner submitted his application which was duly considered by the Selection Committee and name of the petitioner was recommended for appointment on the post of Assistant Teacher. Recommendation of the Selection Committee was duly forwarded to the District Basic Education Officer, Saharanpur and vide order dated 4.08.2010, selection of the petitioner was approved. Petitioner was issued appointment order and he continued to work in the aforesaid school.

4. Petitioner pursuant to his appointment continued to work from the year 2010 till the date of termination of his services i.e. till 10.04.2023 and he has also received salary from the State

Exchequer.

5. One Sri Pawan Tyagi lodged a complaint annexing therewith the alleged approval order dated 4.08.2010 which is contained at Page No. 136 of the writ petition and stated that the said approval order of the petitioner's selection is a forged document and signatures of the then District Basic Education Officer, Saharanpur on the said document are forged, therefore, suitable action may be taken and services of the petitioner may be terminated. The District Basic Education Officer, thereafter got an inquiry conducted and he got the alleged order of approval dated 4.8.2010 contained at Page No. 136 of the writ petition verified from the then District Basic Education Officer and in the verification report, the then District Basic Education Officer said that signatures on the document are not his signatures. On the basis of report of the then District Basic Education Officer, present District Basic Education Officer, Saharanpur passed an order on 03.04.2023 whereby he directed the Authorized Controller of the Bhartiya Adarsh Junior High School Narayanpuri, District Saharanpur to initiate proceedings against the petitioner as per rules and thereafter to terminate his services.

6. The District Basic Education Officer while passing the order dated 3.04.2023 has recorded a finding that since the then District Basic Education Officer has submitted his response in writing wherein it is mentioned that he has not signed the alleged order of approval dated 4.08.2010 which is contained at Page No. 136 of the writ petition, therefore, petitioner's appointment is based on a forged document, accordingly, proceedings should be drawn against the petitioner for termination of her services in accordance with law.

7. Pursuant to order dated 3.04.2023 passed by the District Basic Education Officer, Authorized Controller straightway has passed order on 10.04.2023 whereby petitioner's services from the post of Assistant Teacher Bhartiya Adarsh Junior High School Narayanpuri, District Saharanpur have been terminated.

8. Learned counsel appearing for the petitioner has submitted that the alleged approval order dated 4.08.2010 contained at Page No. 136 of the writ petition, in-fact has been prepared by the complainant himself and was submitted with the complaint and the District Basic Education Officer believing the said document to be the original order of approval forwarded the same to the then District Basic Education officer and he in response said that the signatures on the said document are not his signatures whereas the petitioner's approval order was passed on 4.08.2010 and is

contained at Page No. 54 of the writ petition and on the said document, signature of the then District Basic Education Officer is present.

9. Learned counsel appearing for the petitioner has further submitted that since the original approval letter which is contained at Page No. 54 of the writ petition has not been taken into account by the District Basic Education Officer and even has not been referred to the then District Basic Education Officer for verification, therefore, the orders by which petitioner's services have been terminated are absolutely unsustainable in the eyes of law.

10. Learned counsel appearing for the petitioner has argued that the District Basic Education Officer vide order dated 3.04.2023 directed the Authorized Controller to initiate the proceedings in accordance with the rules for terminating his services but without adhering procedure prescribed under The U.P. Basic Education Staff Rules, 1973 read with The Uttar Pradesh Government Servant (Discipline and Appeal) Rules, 1999, the Authorized Controller straightaway has passed order on 10.04.2023 whereby services of the petitioner have been terminated.

11. Learned counsel appearing for the petitioner has lastly argued that if the original approval letter dated 4.08.2010 contained at Page No. 54 of the writ petition would have been forwarded to the then District Basic Education Officer then definitely he would not have denied the said document which contains his signatures.

12. This court vide orders dated 28.07.2023 and 28.08.2023 directed the District Basic Education Officer, Saharanpur to provide instructions in the matter and in the instructions, it has been categorically mentioned that the document contained at Page No. 54 of the writ petition i.e. the approval order dated 04.08.2010 has not been taken into account while passing the order either by the District Basic Education Officer or by the Authorized Controller of the institution.

13. Learned Standing Counsel though has tried to oppose this writ petition but could not justify as to when there are two documents available and as per petitioner, the alleged approval letter dated 4.08.2010 contained at Page No. 136 is forged document and approval letter dated 4.08.2010 contained at Page No. 54 is a genuine document, then without having a proper verification of both the documents, how the services of the petitioner could have been terminated.

14. I have considered the submissions advanced by the learned counsels appearing for the parties and I find that a complaint in respect of petitioner's appointment was lodged and along with complaint, alleged approval letter dated 4.10.2008 was annexed which is available at Page No.136 of the writ petition and only that document was got verified by the then District Basic Education Officer who in response submitted that the said document does not bear his signatures but the document which is said to be original approval letter which is available at Page No. 54 of the writ petition, at no point of time, has ever been verified or has been taken into account while passing the orders impugned in the writ petition.

15. Once there are two documents of the same date, one filed by the complainant and one by the petitioner then it is in the fitness of things that proper inquiry be done in respect of the aforesaid both the documents and only after arriving at the conclusion as to which document is a genuine document and, in-fact, is a proper approval letter, final determination in respect of the petitioner's services be made.

16. In view of the aforesaid reasons, this writ petition is allowed, both the orders dated 3.04.2023 and 10.04.2023 are quashed.

17. Matter is remanded to the District Basic Education Officer, Saharanpur to have a fresh inquiry in the matter after taking into account both the documents i.e. document annexed at Page No. 136 of the writ petition and document annexed at Page No. 54 of the writ petition and thereafter to pass a fresh order within a period of two months from the date of service of certified copy of this order.

18. It is made clear that since the matter is related with the genuineness of the approval order, therefore, this court is not directing for reinstatement of the petitioner at once. Petitioner's reinstatement in service will depend on the final order to be passed by the District Basic Education Officer.

19. The District Basic Education Officer, if finally concludes that approval letter annexed by the petitioner at Page No. 54 of the writ petition is a genuine document then he will also pass an order for reinstatement of the petitioner in service.

Order Date :- 7.11.2023

A. Mandhani