

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

Civil Writ Petition No.11323 of 2015
Date of Decision: May 28, 2015

Parmod Lathar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Jitender Nara, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the enquiry report dated 15.10.2012 (Annexure P-7) and order dated 9.11.2012 (Annexure P-8), whereby it has been found that respondent No.4-Jaivir Singh Dhanda had worked for 8 years 7 months and 24 days as Principal whereby he became eligible for the post of Deputy Director.

The petitioner is stated to have filed Civil Writ Petition No.3629 of 2010 and during the pendency of the said writ petition, an order dated 2.4.2012 was passed, whereby the matter was adjourned to place on record the decision taken by the competent authority before the next date of hearing and thereafter a fresh enquiry was got conducted from Shri A.S.Rathee, Joint Director, who after taking the evidence and statements of

the complainant and the private respondent found that respondent Jaivir Singh Dhanda had worked for 8 years 7 months and 24 days. The said enquiry report was placed before the Financial Commissioner and Principal Secretary to Government Haryana, School Education Department, Chandigarh, who found that there was no discrepancy in the experience certificate of Jaivir Singh Dhanda and he fulfilled the qualification of the said post.

Mr.Jitender Nara, learned counsel appearing on behalf of the petitioner submits that the enquiry report (Annexure P-7) and the impugned order (Annexure P-8) passed by the Financial Commissioner are erroneous, perverse and against the statements, much less, documents on record. He further submits that the Enquiry Officer has not taken into consideration the record and there was no proof of appointment of respondent No.4 as Headmaster. The Enquiry Officer has given his report on the basis of attendance register and, therefore, there was hanky-panky in the experience certificate of the private respondent and, therefore, he could not be having a teaching experience including the experience of Principal and could not have become eligible for the appointment of Deputy Director. He further submits that there is no delay in approaching this Court as the petitioner has filed the writ petition in the year 2010, which was got dismissed as withdrawn with liberty to challenge the impugned order (Annexure P-8).

I have heard the learned counsel for the petitioner and appraised the paper book.

It would be apt to refer relevant portion of the enquiry report, which reads thus:-

“As per the statement of Sh.Jaivir Singh Dhanda the Institute Param Mitra Kanya Vidya Niketan Khandakheri was near his village and he came to know about the vacancy through pamphlets and after facing an interview he was told to work as Head Master of the above said Institute. Regarding his appointment to the post of Head Master the manager of the school has stated that the school started in the year 1997 and being a new school and he also being new to this field did not knew about the selection process of teachers and Head Master. No advertisement was given in the newspaper regarding various vacancies. Advertisement of various vacancies were displaced at village level through banners/pamphlets and Sh.Dhanda was appointed as Head Master without giving any appointment letter. There is also another teacher Sh.Virender who is also working in school as JBT without given any appointment letter. As per the statement of Manager Sh. Dhanda worked as Head Master from 01.04.1997 to 31.03.2001 and as principal from 01.04.2001 to 13.10.2004. Record of the school was also checked to confirm his working in the capacity of Head Master from 01.04.1997 to 31.3.2001 and Principal from 01.04.2001 to 13.10.2004. Registers like Teacher Attendance Registers, Salary Register, Order Book, Result Register Annual Exam (Primary Branch) and Admission withdrawal Registers were also checked by the undersigned and District Education Officer Hisar and found that Sh.Jaivir Singh Dhanda had actually worked as Head Master from 01.04.1997 to 31.03.2001 and Principal from 01.04.2001 to 13.10.2004. As per Haryana School Cadre (Group-A) Service Rules 1998 the qualification for the post of Deputy Director/District Education Officer/District Primary Officer/Principal District Institute of Education and Training one must have eight years experience of teaching and educational administration out of which 3 years experience

should be in supervisory capacity in a higher senior secondary school or equivalent post.

Sh.Jaivir Singh Dhanda had worked as Teacher in Army from 14.05.1992 to 24.06.1993 i.e. 1 year 1 month and 11 days which has been verified by the office from Army vide letter no.2774/GS(SD) dated 07.04.2005. He has also worked as Head Master in Param Mitar Kanya Vidya Niketan Khandakheri Hisar from 01.04.1997 to 31.03.2001 i.e. 4 years total teaching period is 5 years 1 month and 11 days. Sh.Jaivir Singh Dhanda had worked as Principal in Param Mitar Kanya Vidya Niketan Khandakheri Hisar from 01.04.2001 to 13.10.2004 i.e. 3 years 6 months and 13 days total teaching experience including experience of Principal is 8 years 7 months and 24 days. Therefore, Sh.Jaivir Singh Dhanda became eligible for the post of Deputy Director etc.”

From the perusal of the enquiry report, it is found that respondent No.4-Jaivir Singh Dhanda had 8 years 7 months and 24 days teaching experience, including the experience of Principal and, therefore, he became eligible for the post of Deputy Director, though it has come on record that there was no appointment letter issued by the Institute, but the aforementioned findings have been arrived at on the basis of the Teachers Attendance Registers, Salary Register, Order Book, Result Register Annual Exam (Primary Branch) and Admission withdrawal Registers, which were duly checked by the Enquiry Officer and District Education Officer Hisar and it was found that Jaivir Singh Dhanda had worked as Head Master from 01.04.1997 to 31.03.2001 and Principal from 01.04.2001 to 13.10.2004. As per Haryana School Cadre (Group-A) Service Rules 1998, the qualification for the post of Deputy Director/District Education Officer/District Primary

Officer/Principal District Institute of Education and Training one must have eight years experience of teaching and educational administration out of which 3 years experience should be in supervisory capacity in a higher senior secondary school or equivalent post.

From the operative part of the report of the Enquiry Officer, it is evident that the private respondent had the experience and the said enquiry report was placed before the Committee consisting of Deputy Superintendent, Chief Accounts Officer and Joint Director and they endorsed the view of the Enquiry Officer. The said report was also placed before the Financial Commissioner and Principal Secretary to Government Haryana, School Education Department, Chandigarh, who after examining the report, found that there was no discrepancy in the experience certificate.

The petitioner has not led any evidence in support of his contention to show that Jaivir Singh Dhanda did not have the experience and in the absence of such evidence, the Enquiry Officer relied upon the aforementioned documents as referred (supra) to come to a finding that the private respondent had teaching experience including experience of Principal.

There is no merit in the writ petition for issuing a writ of quowarranto. Accordingly, the same is dismissed.

May 28, 2015
ramesh

(AMIT RAWAL)
JUDGE