

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

CWP No.12527 of 2015 (O&M)

Date of decision: 02.05.2016

Ravi Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Nehra, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr. Jagjit Beniwal, Advocate,
for respondent No.4.

Ritu Bahri, J.

The petitioner is seeking a writ of certiorari for quashing the show cause notice dated 27.05.2015/29.05.2015, endorsed on 03.06.2015 (Annexure P-7), vide which his services are sought to be terminated.

Pursuant to an advertisement issued by the Haryana Public Service Commission for the post of Headmaster in the year 2003, the petitioner was selected and offered appointment vide order dated 14.10.2004 (Annexure P-4). He was selected under the S.C. (A) category and as per terms and conditions of the appointment letter, he was to be governed by the Civil Services Rules, as applicable to the Haryana Government Employees and by the Haryana Education Department Rules (Group B) Service Rules, 1998. Two enquiries were conducted against the petitioner with regard to his experience certificate showing his experience of 8 years. The enquiry officers gave their respective reports on 10.10.20012

and 31.10.2013 (Annexures P-5 and P-6), whereby the experience certificate

of the petitioner was found to be genuine. It was also found that the petitioner had passed his M.A. examination in December, 2002 and was absent in the classes of M.A. (Hindi). However, a show cause notice dated 27.05.2015/29.05.2015 (Annexure P-7) has now been issued to the petitioner on the same ground that is experience certificate is bogus and that he was a regular student of M.A. Hindi in Vaish College, Bhiwani during sessions 1999-2000 and 2000-2001 and he passed his M.A. Examination from MD University, Rohtak under Roll No.182099 in May, 2001. This period was completely covered in the period of experience and hence, the experience as Hindi Teacher was vague and bogus. Vide impugned show cause notice (Annexure P-7), the services of the petitioner are sought to be terminated.

In similar circumstances, a number of petitions were filed by the petitioners, who had been regularly selected by the department and were being sought to be terminated without holding any enquiry. One such petition was titled as **Shilk Ram Vs. State of Haryana and others**, CWP No.4729 of 2015. Those petitions were allowed by this Court vide order dated 13.05.2015 (Annexure P-9). It was held that at the time of issuing notice(s), the authority had made up its mind to terminate the services of the petitioner(s) without conducting any enquiry. The petitioners were regular employees and their services could not be terminated without following the procedure laid down under the Haryana Civil Services (Punishment & Appeal) Rules, 1978. The show cause notices were set aside. However, liberty was granted to the respondents to proceed afresh after affording opportunity of hearing to the petitioners as per law.

Learned counsel for respondent-State has vehemently argued that

the petitioner has given his experience certificate pertaining to the period when he was pursuing M.A. from the MD University, Rohtak and the show cause notice, in the present case, has been rightly issued by the competent authority. The petitioner could not have a valid experience certificate when he was pursuing his education as a regular student. At the same time, he has not been able to dispute that the judgment passed by this Court in **Shilk Ram's** case (supra) (Annexure P-9) has been implemented by the respondent-department and has attained finality.

The respondents have not disputed the fact that the petitioner was appointed pursuant to a regular selection process initiated by the Haryana Public Service Commission and the judgment passed by this Court in **Shilk Ram's** case (supra) (Annexure P-9) is directly applicable to the facts of the present case. After having served the department for more than 11 years, the petitioner could not be terminated without holding a regular departmental enquiry.

In view of the above discussion, the impugned show cause notice dated 27.05.2015/29.05.2015 (Annexure P-7) is set aside. However, a liberty is granted to the respondents to proceed further and pass fresh order after affording proper opportunity of hearing to the petitioner as per law. In case, any enquiry has to be conducted, the enquiry report should be made available before giving any fresh show cause notice to the petitioner. It is also made clear that in case, any adverse order is passed against the petitioner, he will be at liberty to avail appropriate remedy.

Allowed in the aforesaid terms.

(RITU BAHRI)
JUDGE

02.05.2016
ajp