

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P. No. 14660 of 2015 (O&M)

Reserved On : February 09, 2016

Pronounced On : April 22, 2016

Baldev Kumar Petitioner

vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Ajay Jain, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of order dated 03.07.2015 (Annexure P-1), through which, his services as a Driver (heavy transport vehicle) have been terminated. The petitioner has further prayed for issuance of a direction to the respondents to reinstate him with full back wages, along with continuity in service and other consequential benefits.

The relevant facts, which need to be noticed for adjudicating upon the present petition, are that in December 2012, the State Transport Department, Government of Haryana, invited applications for appointment of Heavy Vehicle Drivers (on contract basis). The prescribed qualifications were that a candidate should be Matriculate with Hindi/Sanskrit from a recognized Board or University, should be holding a valid transport vehicle driving license and having a minimum of two years' experience of driving a heavy goods vehicle including proficiency in driving heavy passenger motor vehicle or ten years' experience in driving a vehicle in the Armed Forces.

In pursuance to the aforesaid advertisement, the petitioner applied for consideration of his candidature and being successful in the selection process, was offered appointment, however, subject to the following rider :-

“Attested copies of educational and professional qualifications and Matriculation certificates shall be furnished. The documents pertaining to your qualification, experience, age and caste/category, as claimed by you in the application form shall be got checked/verified by the concerned General Manager, Haryana Roadways. If it is found that there is material discrepancy in the educational/professional qualifications,

age, caste, reservation benefit under Ex-serviceman or outstanding sportsman etc. and experience that you had claimed in the application then this offer of appointment shall be treated as null and void.”

A perusal of the afore-quoted terms and conditions of appointment show that the appointment of the petitioner was subject to verification of his claimed educational/professional qualifications etc. and if, after verification, it was found that there was material discrepancy in the same, then the offer of his appointment shall be treated as null and void.

After the verification of the petitioner's Matriculation Certificate, it was found that the Council of Secondary Education, Mohali (hereinafter referred to as – the Council), from where the petitioner claimed to have passed his Matriculation examination, was not recognized. As a result thereof, after putting the petitioner to notice, through the order impugned in the present petition, his services were dispensed with.

I have heard learned counsel for the parties and with their able assistance, have also perused the record of the case.

Neither has it been pleaded in the writ petition nor during the course of arguments it was shown as to the Statute under which the Council had been established or had been recognized under. The only argument raised was that the Council was registered under the Societies Registration Act, 1860 and that it was recognized by different Boards including the

Panjab University, Chandigarh.

Once the Council has not been established by any Statute, and that it does not have any statutory backing or recognition by any statutory body, it would be considered as an un-recognized Institution. Resultantly, any person including the petitioner claiming himself to be in possession of qualifications imparted by the Council, would have to be considered to be a person having un-recognized qualifications.

Further, in an affidavit filed on behalf of the Government of India in a connected matter being **C. W. P. No. 17499 of 2015 – Raffik Mohmad vs. State of Haryana and others**, it has specifically been stated that the Council is not recognized by the Government of India. The relevant portion of the aforementioned affidavit filed is reproduced below :-

“3. That there are only two national level education boards namely Central Board of Secondary Education (CBSE) and National Institute of Open Schooling (NIOS) which have been established by the MHRD.

4. That the three Education Boards, namely Board of Secondary Education, Madhya Bharat, Gwalior, Board of Higher Secondary Education, New Delhi and Council of Secondary Education, Mohali, as mentioned in the order dated 01.10.2015 (Annexure-A1) of this Hon'ble Court are neither set up nor recognized by MHRD.

5. That MHRD, in order to ensure that innocent students do not become victim of

unscrupulous and illegal activities of fake/unrecognised boards, had issued an advisory on 20.11.2008 (Annexure-A4) to all Education Secretaries of the State Governments and Union Territories for prevention of functioning of fake boards within their defined territorial jurisdiction, as stipulated in the State Education Acts or Rules. It is thus imperative that every State and Union Territory ought to have a provision to regulate recognition of Education Boards, conduct of public examination and issue of certificates by such Boards. The States/UTs are expected to function as watchdogs so that fake institutions, calling themselves examination boards and issuing certificates, do not operate under their territorial jurisdiction and if any such Boards exist, they should have appropriate mechanism to deal with such fake Boards.”

There is no rebuttal on behalf of the petitioner to the contents of the afore-quoted affidavit filed on behalf of the Government of India.

Learned counsel for the petitioner has argued that several Boards including the Panjab University, Chandigarh have granted recognition to the Council. A closer scrutiny of the so-called recommendations by different Boards including the Panjab University, Chandigarh reveals that through these documents, an attempt is made to

mislead the Court. Illustratively, the document dated 24.09.2009 (Annexure P-16), through which it was projected that the Council had been recognized by the Panjab University, Chandigarh, is actually only a letter written by the Panjab University, Chandigarh to the Council to the effect that 10+2 examinations conducted by the Boards represented on the Council of Boards of School Education in India, New Delhi stand recognized for the purpose of pursuing higher studies at the University. It nowhere and in no manner grants recognition to the Council, from where the petitioner claims to have passed his Matriculation examination.

In view of the above, while dismissing the present petition, it is held that the petitioner does not possess the qualification of Matriculation through a recognized Board/Council and thus, does not meet the prescribed essential qualifications. Therefore, his services have rightly been terminated as per the terms and conditions of his appointment.

No costs.

(DEEPAK SIBAL)
JUDGE

Pronounced On : April 22, 2016

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