

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

CWP No. 3387 of 2016 (O&M)

Date of decision:-17.11.2016

Smt. Mahender Kaur

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sushil Kumar Verma, Advocate for the petitioner.

Ms. Shruti Jain Goyal, A. A.G., Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

Having heard the learned counsel for the parties on the issue of overwriting in the disputed School Leaving Certificate, there is an inherent presumption that the petitioner studied in Class 8th but there is no proof of his passing the examination. In the petition the claim is based on passing Class 7. The minimum essential educational qualifications for appointment to the post of Anganwari Helper was 5th Class pass. Indisputably, the petitioner is 5th Class pass. In the selection process, the petitioner was successful. She was offered appointment and she joined the post. However, her case was reviewed when it was found that the school leaving certificate appears to be suspicious since there was an overwriting on the face of the original certificate. For this reason, the petitioner was issued show-cause notice, heard and her services have been terminated vide the impugned order dated 13.04.2015 (Annex P-8). Hence, the present petition under Article 226 of the Constitution seeking directions to quash the impugned order.

Ms. Shruti Jain Goyal, AAG, Haryana appearing for the State of Haryana points out that in the criteria adopted, for the selection, weightage was given to higher qualifications of 8th class and 10th class with award of five marks to add to the total merit. The petitioner was given five marks on the basis of being middle pass i.e. Class 8. Since there was a visible cross 'X' on the certificate in the column of Class passed she was treated erroneously as 10th pass by mistakenly reading Roman Numeral 'X' as English 10 in the space between words and on the dotted line where the word 'pass' is written, it has been ticked mark to indicate successful completion of 8th class. Accordingly, the petitioner was five marks for being 8th pass while she was not. There is another aspect pointed out by Ms. Goyal which is of importance to the case in hand that the petitioner secured 3 marks in the interview whereas the successful candidate scored 2 marks. By this advantage the petitioner earned for being 8th class pass, she secured appointment and the next successful candidate was pushed to the waiting list and offered appointment to service from there.

The genuineness and validity of the original certificate issued by the Government Senior Secondary School, Village Mehmera, District Fatehabad is purely a verifiable fact and it appears that no serious effort was made to procure the original documents from the school or make an on the spot inspection and enquiry to determine the educational status of the petitioner in that school. The impugned order has limited its consideration to over-writing in a superficial manner without holding proper inquiry, attracting the authority's attention to the materials available on record of the Govt. school and for lack of this minimal exercise carried out the termination order becomes unquestionably unsatisfactory handiwork

involving evil civil consequences. The order visits the petitioner with extreme punishment of termination for which many reasons the operation of the impugned order was stayed by an ad interim order dated 19.02.2016 passed by this Court, with positive direction that in case the petitioner is relieved from her service, she be reinstated to service, in the meantime. The order is in operational mode and binding.

Without expressing any opinion on the merits of the case or the correctness of the School Leaving Certificate, the case is remanded back to the authority to pass a fresh order, in accordance with law, after holding a fair and proper inquiry into the original certificate from the Government School, where the petitioner studied. The petitioner would be associated with the inquiry and would be heard before the fresh order is passed. The petitioner would have a right to produce the evidence in defence of her certificate to establish her educational status to protect her appointment.

Accordingly, this petition is partly allowed, the impugned order dated 13.04.2015 (Annex P-8) is quashed and the case is remanded to the Child Development and Project Officer, Baragudha, District Sirsa. In this renewed effort, the CDPO may take the assistance of the District Administration and the District Education Officer, Sirsa to facilitate the office of CDPO to tie up with the Education Department to resolve the dispute. No time-limit is being fixed since it is not possible to gauge the length of time it might take to complete the exercise in terms of this order but it is expected that the CDPO will conduct the inquiry and pass fresh order within reasonable time. Till such time the fresh order is not passed, the interim order passed by this Court on 19.02.2016 shall continue to operate and the petitioner would continue to work and be paid salary

attached to the post of Anganwari Helper. In case there are arrears of salary the same will be kept in abeyance till such time as the fresh order is passed and the authority in the first instance considers and decides upon that relief also in the main order to be passed in accordance with law.

(RAJIV NARAIN RAINA)
JUDGE

17.11.2016
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Whether speaking/reasoned	Yes
Whether reportable	No