

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

(1) CWP No. 12450 of 2013 (O&M)
Date of decision: 27.1.2017

Ashwani Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

(2) CWP No. 13869 of 2013 (O&M)

Swaranjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sapan Dhir, Advocate,
for the petitioner in CWP No. 12450 of 2013.

Mr. R.K. Chopra, Senior Advocate with
Ms. Gagandeep Kaur, Advocate,
for the petitioner in in CWP No. 13869 of 2013.

Mr. Avinit Avasthi, AAG, Punjab.

JAISHREE THAKUR, J.

1. This order shall dispose of the above titled writ petitions, as they arise out of the same set of facts and involving similar question of law. However, for the sake of brevity, facts have been extracted from CWP No. 13869 of 2013.

2. The petitioner herein are aggrieved against the termination order dated 02.02.2006 by which services of the petitioners have been

dismissed without conducting any departmental inquiry or following procedure as per Punjab Civil Services (Punishment and Appeal) Rules 1970.

3. In brief the facts are that the petitioner got a B.Ed. degree from Magadh University Bodh Gaya in December, 1985. Pursuant to an advertisement issued in 'The Tribune' on 12th January, 1996, the petitioner applied for the post of Social Studies Master and on facing a regular selection process, was appointed as such on 17.01.1997. By letters dated 07.01.1998 and 02.06.1998, the respondent Department wrote to the Controller of Examination, Magadh University Bodh Gaya Bihar for verification of the B.A. And B.Ed degree issued to the petitioner, to which the Joint Controller of Examination of the said University replied stating that the petitioner passed his B.A. as well as B.Ed. examination held in 1985 and 1986 respectively securing 1st Division in B.Ed with 607 marks. On receipt of the said verification, the salary of the petitioner was released by the Department. The petitioner continued to discharge his duties but was served with a show cause notice dated 19.12.2005 as to why his services be not terminated on the ground that the certificates of B.A. and B.Ed. possessed by the petitioner are not genuine. The petitioner replied to the show cause notice stating therein that the certificated possessed by him are absolutely genuine and they have also been got verified from the University itself. Still the services of the petitioner were dismissed by an order dated 02.02.2006, against which order an appeal was preferred which too was dismissed. Similarly situated employees who had been dismissed by the on

the same ground, approached this court by filing of writ petitions, which were allowed. The petitioner herein claiming the same benefit under the judgment rendered in **Civil Writ Petition No. 10647 of 2010 Sartaj Singh Vs State Of Punjab and others**, approached the Department for reinstatement but to no avail. Claiming parity with similarly situated employees who had been dismissed from service by the impugned order dated 02.02.2006, the instant writ petition has been filed.

4. Mr. R.K. Chopra, learned Senior Counsel and Mr. Sapan Dhir, Advocate, appearing on behalf of the petitioners contend that the petitioner was dismissed from service without any justification, especially when the University itself had confirmed that the degree of the petitioner was genuine and that he had cleared the said examination with 1st Division. It is argued that after verification of his degree twice over there was no justification in holding that the degree was forged or that appointment had been obtained on the basis of a forged degree. It is further argued that the petitioner had been appointed after facing a regular selection process and the order dated 02.2.2006, dismissing him from service, is wholly illegal, without following due process or by holding a regular inquiry. Reliance has also been placed upon a judgment rendered in **CWP No 10647 of 2010 Sartaj Singh Vs State of Punjab and others decided on 17.1.2013**, where a similarly situated person who was dismissed from service by holding that the B.Ed degree from Magadh University was a fake document, approached this court and the this Court quashed the order by holding that due process had not been followed.

5. Per contra Mr. Avinit Avasthi, learned counsel appearing on behalf of the respondent State submits that the services of the petitioner came to be dismissed on account of the fact that the degree was a fake one. However State Counsel could not dispute that no regular departmental inquiry was held as envisaged under the rules before the petitioner was dismissed from service.

6. I have heard both counsels for the parties and with their assistance gone through the record.

7. Admittedly, the petitioner was selected after facing a regular selection process on verification of the documents and degrees. The petitioner continued to discharge his duties from 1997 till 2006 on which date of termination order were issued. It is worth noting that the petitioner herein was confirmed in the scale of Master by an order dated 10.1.2002. After having being confirmed, the petitioner services could not have been dismissed without holding a regular departmental inquiry, which has not been done in the present case. The respondents have not noticed the letters addressed from the Joint Controller of Examination Magadh University Bodh Gaya certifying that the BA and B.Ed degrees of the petitioner are genuine. The certificates were confirmed before the pay of the petitioner was released.

8. The argument as raised by the learned counsel for the respondent that this court should not interfere on account of delay and latches is not sustainable. The petitioner herein had been removed from service without holding a departmental inquiry or taking into account that the certificates had been verified at the time of initial appointment and

thereafter before the release of salary and confirming the petitioners against the said post. Similarly situated persons had filed writ petition and after hearing counsel for the parties the writ was allowed and impugned orders were set aside giving liberty to the respondents to take appropriate steps in accordance with law with a further direction that in case the petitioner is found to possess a genuine degree all consequential benefits be allowed to the petitioner as well. The petitioners herein is in a similar situated having a degree from Magadh University who was appointed pursuant to a same selection process and his services too were dismissed without a departmental inquiry. The petitioner too had been agitating his claim by filing an appeal which was rejected without adequate reasons. After **Sartaj Singh' case (supra)** was allowed, a representation was filed seeking parity with the petitioner in Sartaj Singh's case (**Civil Writ Petition No. 10647 of 2010**) but to no avail. Since the representation was not decided, the petitioner was forced to approach this court by way of the present writ petition. It is well settled law laid down in a catena of judgments that it is the bounden duty of the State to treat all similarly situated persons equally. Therefore, the plea of delay and laches would not be sustainable in the instant case.

9. Therefore, in view of the above when there has been flagrant violation of the rules of natural justice and when services of the petitioners have been dismissed without holding any departmental inquiry, the impugned orders are held to unsustainable and are hereby quashed. The respondents are always at liberty to pass any fresh orders in accordance with

law. In case the degree of the petitioners are found to be possessing a genuine one, the consequential benefits shall also be released to them.

The writ petitions stand disposed of on the above terms.

27.1.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No