

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

CWP No. 13512 of 2014 (O&M)

Date of decision: March 8, 2017

Sukhdev Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. RK Arora, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioner challenges order termination dated 22.10.2009, whereby he was removed from the post of ETT Teacher, order dated 23.08.2010, whereby claim of the petitioner for his reinstatement in service has been declined, as well as impugned order dated 18.11.2013 conveyed to the petitioner, vide endorsement No. 606 dated 7.7. 2014.

2. The petitioner applied for the post of EET Teacher pursuant to an advertisement dated 5.9.2007. He had the necessary qualification of B.Sc./B.Ed. with teaching experience at Rajneesh Public School Talwandi Bhai in District Ferozepur for the period commencing 7.7.2003 to 10.9.2007. The petitioner had applied under the BC category and secured 57.836 marks which was higher than the last general category candidate. Accordingly, the petitioner was given appointment as per his higher merit in the General category. The last candidate in BC category selected with merit

was 52.441 in District Moga. By order dated 26.10.2008, the petitioner was asked to join at Government Elementary School, Daroli Bhai, Block Moga-2, District Moga, on a consolidated salary of Rs. 4500/- per month.

3. On account of various bogus experience certificates having been issued to secure employment against the said advertisement, a public notice had been issued by the State for confirming the experience certificate and ultimately the appointment of the petitioner and several other ETT teachers was cancelled on 22.10.2009. A number of writ petitions were filed before this Court challenging orders of termination. The writ petitions came to be disposed of on a statement made by the State that the claim of the petitioners would be considered by passing a speaking order after considering all documents submitted by the candidates. The petitioner herein also approached this Court against the order terminating his services and he was given an opportunity to produce material in support of his experience certificate. Thereafter, the petitioner appeared before the Committee but his claim was rejected by impugned order dated 23.08.2010, against this order the petitioner again represented to a Committee constituted to re-look into the grievance of the petitioner and other similar employees. However, the Committee again rejected the claim of the petitioner by impugned order dated 18.11.2013. Aggrieved the instant writ petition has been filed.

4. Mr. R.K.Arora, learned counsel appearing on behalf of the petitioner, submits that the experience certificate is neither bogus nor forged. In fact, the petitioner had worked at the School and obtained the necessary work experience. It is submitted that the School where the

petitioner had worked had closed down and was no longer functional. In support of his plea that he had worked in the School, the petitioner produced copies of proforma for the year 2004-2005 and 2005-2006 from the District Information System for Education, where his name had been shown at serial No. 3, as also information received under the RTI from the Punjab School Education Board granting affiliation to the School and its subsequent cancellation. It is further argued that the petitioner had the necessary marks in the Backward Class category to be appointed without giving any marks for experience.

5. Per contra, learned counsel for the respondents-State would submit that the petitioner has not been able to prove the genuineness of the certificate before the Committee and, therefore, has rightly been terminated from service and the orders have been affirmed. It is also argued that the petitioner would not be entitled to reinstatement as he had obtained the job on the basis of a fraudulent certificate and fraud vitiates all selections.

6. I have heard the learned counsel for the parties and with their assistance have gone through the paper book.

7. The termination order dated 22.10.2009 has been issued by taking the experience certificate issued as bogus. After the disposal of the writ petitions listed before this court, the State constituted a Committee to re-look into the matter and gave opportunity to various candidates to submit the documents before them to prove the genuineness of their experience certificate. The petitioner supplied several documents including orders of Punjab School Education Board showing that Rajneesh Public Middle School Talwani Bhai, Ferozepur, had been granted recognition up to middle

standard from Session 2003 onwards affidavits of members of the Municipal Council, photographs, information from the District Information System for Education, letter addressed from the Punjab School Education Board SAS Nagar to Rajneesh Public School regarding cancellation of affiliation on account of the fact that the School was closed. The petitioner also produced on record letters written to the SHO regarding theft in the school, but taking a hyper technical view, the Committee concluded that since no representative from the School appeared before the Committee and no original record of the School was produced to prove the documents, the experience certificate was found to be bogus. The petitioner had also requested the Committee to take his marks into consideration, without the experience certificate, and if found meritorious reinstate him which aspect was not looked into. It needs to be noted that the petitioner herein though belonging to Backward Class had more marks than candidates in the General Category and, therefore, had been given appointment in the General Category.

8. In a dispute arising out of the same selection an order came to be passed in **LPA 239 of 2011 State of Punjab and others vs. Davinder Kaur decided on 4.5.2011**, wherein it was held that the Committee, while re-looking into the issue regarding bogus certificates should not act in a hyper technical manner. The Court held as under:-

“We have noticed the aforesaid arguments in order to highlight that extreme technicality should be avoided by the appellant to determine the authenticity of the experience certificate produced by the writ-petitioner respondent. A common sense

view which a reasonable person conceive should be adopted. However, it would not mean that if the certificate is not owned by the authority issuing the same then that it would qualify to be authentic. It would also not be regarded as authentic if the certificate is issued has been owned but there is no proof that the writ petitioner-respondent actually worked and required experience. In any case the procedure adopted by the appellant cannot be adversely commented upon at this stage.”

9. In the instant case, admittedly the School had closed down and the record of the School was not available on account of a theft that had taken place taken. Affidavit of members of the Municipal Council had been furnished wherein it had been mentioned that their children had been taught by the petitioner while also stating that on account of death of the Principal the School had closed down. Information was also supplied (Annexure P/10) i.e from **District Information System of Education** for academic year 2004-05, which is yearly information supplied by a School. The signatures of the petitioner are reflected therein as well as his name is reflected as a teacher at serial no 3. Coupled with this, the affidavits, documents to show that the School had affiliation with the Punjab School Education Board, photographs and newspapers items showing a function at the School where the petitioner was also reflected etc. would have been sufficient proof that the petitioner had taught in that school. The staff statement available with the Punjab School Education Board (Annexure P/16) also shows that the petitioner was a teacher in Rajneesh Public School Talwandi Bhai. Just because the Principal had not appeared before the

Board/Committee, it could not be said that the experience certificate is not genuine. What has to be kept in mind was that the Principal was no longer alive to come and depose before the Committee.

10. The argument, as raised by the respondent, that the petitioner cannot derive any benefit and seek appointment on bogus certificate would have merit, in case it could have been established that the experience certificate was indeed bogus. Merely because the original record was not produced by the Principal, the said certificate cannot be said to be a bogus one. There is no conclusive evidence on the record to establish the fact that the experience certificate relied upon has been obtained fraudulently, whereas Annexure P/16 would reflect that the petitioner taught in the aforementioned school.

11. Resultantly, the writ petition is allowed. The impugned orders dated 22.10.2009, 7.7.2014 and 18.11.2013 are hereby set aside with a direction that the petitioner be reinstated in service with all consequential benefits. Let the needful be done within a period of two months from receipt of certified copy of this order.

March 8, 2017

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No