

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

CWP-16453-2013

Date of decision: 29.03.2017

Parveen

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Gaurav Sharma, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioner has preferred the instant writ petition seeking to set aside impugned order dated 30.01.2006 vide which the services of the petitioner were terminated in contravention to provisions contained in the Punjab Civil Services (Punishment and Appeal) Rules, 1970 as well as for quashing impugned order dated 09.07.2013 vide which the appeal filed by the petitioner has been rejected.

2. In brief, the facts are that the petitioner acquired the qualification of B.A. from Guru Nanak Dev University, Amritsar and thereafter passed B.Ed. examination from Magadh University, Bodh Gaya, Bihar in June 1995. The respondents invited applications for filling in posts of Social Studies Mistresses and the petitioner being qualified applied against one of the reserved vacancies meant for dependent of Ex-Serviceman. After appearing before the Departmental Selection Committee and on scrutiny of documents, she was appointed by orders dated

17.11.1997 as Social Studies Mistress in the pay scale of Rs.1650-2925. Having worked for more than five years, the petitioner received orders dated 30.11.2005 alleging that the B.Ed. degree she had obtained from Magadh University, Bodh Gaya, Bihar was fake and it was proposed to remove her from service. A detailed reply was submitted therein, however, her services were terminated by impugned order dated 30.01.2006. Against the said impugned order, the petitioner filed an appeal which was dismissed by order dated 6.9.2006, which order was challenged by way of filing CWP No. 19450 of 2006. In the meantime, a criminal case was also registered against the petitioner in which she was acquitted. Civil Writ Petition No. 19450 of 2006 was decided by this Court on 06.12.2012 with a direction to respondent No.1 to pass a fresh order in the matter keeping in view the decision in the criminal case. The matter was reconsidered and the order of termination was upheld. Aggrieved, the instant writ petition has been filed.

3. Mr.Gaurav Sharma, learned counsel appearing on behalf of the petitioner vehemently contends that the impugned orders of termination and the orders passed are illegal and are liable to be set aside. It is argued that the services of the petitioner could not have been terminated in violation of Article 311 of the Constitution of India in so far as no departmental inquiry was conducted whether or not the degree obtained is a fake degree. Moreover, once the petitioner has been exonerated in criminal proceedings that had been initiated, the petitioner ought to have been reinstated in service. It is also urged that the impugned order reflects that the degree bearing Sr. No. 263786 of Parveen D/o Kishan Singh exam held in June 1995 has been verified as a degree not issued from Magadh University,

Bodh-Gaya, but the said degree does not pertain to the petitioner. As per Annexure P-3, the provisional certificate issued by the University, the registration No. is 16720 and, therefore, the findings are not sustainable.

4. Per contra, Mr. Avinit Avasthi, learned counsel appearing on behalf of the respondents-State submits that the degree of the petitioner was verified as far back as 2005 and after information was received from the Magadh University, Bodh-Gaya that the degree has not been issued by the University, the impugned orders of termination were issued. It is further contended that after the disposal of the writ petition by this High Court, opportunity of hearing was given to the petitioner and a speaking order was passed therein and the orders of termination have been upheld.

5. I have heard learned counsel for the parties and have also perused the record of the case.

6. Admittedly, the petitioner was offered appointment on the basis of a degree that had been issued to her by Magadh University, Bodh-Gaya, Bihar. Her services were terminated on account of the fact that the degree was found to be fake. After the matter was remanded by the High Court, respondent No.1 looked into the matter afresh and came to the conclusion that the charges framed against her were withdrawn by giving benefit of doubt to the petitioner herein but rejected the claim of the petitioner for reinstatement on the ground that the communication (Annexure P-3) had been received from the Magadh University, Bodh-Gaya, which clearly stipulates that the degree of Parveen D/o Kishan Singh has not been issued from Magadh University, Bodh-Gaya. Annexure P-3 has been perused by this court, which is annexed with the writ petition, and it reflects that a

provisional certificate that has been issued in the name of Parveen D/o Kishan Singh showing that she passed B.Ed. final examination in this University which was held in the month of June, 1995. The certificate bears registration No. 16720 and issued on 14.11.1995. The order passed by respondent No.1 reflects the name of Parveen D/o Kishan Singh with serial No. 263786 on the B.Ed. Degree, which degree has been held not to be issued from Magadh University, Bodh-Gaya. During the course of the proceedings, learned counsel for the petitioner was asked to show the regular degree that has been issued. A photocopy of the same was produced in Court. A perusal of the same showed that the serial number of the degree was 263786 which degree number tallied with the information as supplied by the Controller Examination, Magadh University, Body Gaya by letter dated 14.09.2005 to the effect that this degree had not been issued by Magadh University, Bodh-Gaya. In all fairness, the petitioner ought to have annexed the actual degree that had been issued, with the writ petition which has not been done.

7. Leaned counsel for the petitioner also would like to rely on the judgments rendered in *Dr. M.S. Mudhol vs. Shri S.D. Helegkar, 1993(4) SCT 226* and *District Collector and Chairman Vizianagaram (Social Residential School Society) vs. M. Tripura Sundari Devi, 1990(3) SCC 655* to contend that after a due selection had been held on scrutiny of documents, services of the petitioner could not have been terminated after a lapse of five years in service. It is further argued that the petitioner herein has become overage and would not be able to get a job anywhere. The judgments as relied upon are distinguishable and are not applicable to the

facts of the present case.

8. Admittedly herein, a fresh hearing was given to the petitioner after the civil writ petition was disposed of. The degree, on which the petitioner is relying, is not a genuine one and this is as per the information given by the Controller, Examination of the issuing University. No reliance can be placed upon the provisional certificate that had been issued to the petitioner, since thereafter a degree certificate has been issued (i.e. degree No. 263786 not placed on the record). The law is well settled that fraud vitiates all selections. In this regard reliance can be placed on a judgment rendered in ***Regional Manager, Central Bank of India vs. Madhulika Guruprasad Dhir and others, (2008) 13 Supreme Court Cases 170.***

Relevant extract of the same reads as under:-

“16. In Ram Chandra Singh v. Savitri Devi this Court had observed that fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine.

17. Recently, in State of Maharashtra v. Ravi Prakash Babulalsing Parmar dealing with a similar situation, this Court has observed thus : (SCC p.89, para 23)

“23. The makers of the Constitution laid emphasis on equality amongst citizens. The Constitution of India provides for protective discrimination and reservation so as to enable the disadvantaged group to come on the same platform as that of the forward community. If and when a person takes an undue advantage of the said beneficent provision of the Constitution by obtaining the benefits of reservation and other benefits provided under the Presidential Order although he is not entitled thereto, he not only plays a fraud on the society but in

effect and substance plays a fraud on the Constitution. When, therefore, a certificate is granted to a person who is not otherwise entitled thereto, it is entirely incorrect to contend that the State shall be helpless spectator in the matter.”

18. *Having considered the matter in the light of the aforestated legal position, in our judgment, the decision of the High Court is untenable. As noted supra, the employee having accepted the finding of the Scrutiny Committee, holding that the caste certificate furnished by the employee was false, the very foundation of her appointment vanished and her appointment was rendered illegal. Her conduct renders her unfit to be continued in service and must necessarily entail termination of her service. Under these circumstances, there is absolutely no justification for her claim in respect of the post merely on the ground that she had worked on the post for over twenty years. The post was meant for a reserved candidate but she usurped the same by misrepresentation and deception. In our opinion, the fact that caste certificate was referred to the Scrutiny Committee for verification after ten years of her joining the service and a long time was taken by the Scrutiny Committee to verify the same is of no consequence inasmuch as delay on both the counts does not validate the caste certificate and the consequent illegal appointment.*

9. Even though the petitioner had been allowed to work for a length of time, it was only when on verification from the university it was found that the certificate is fake one, that proceedings were initiated. Therefore once the appointment is based upon a certificate found to be a fake one, no benefit can be given to the petitioner. The argument raised that there was no inquiry as envisaged before termination, would not be sustainable in view of the fact that after the CWP No. 19450 of 2006 was

disposed of by order dated 06.12.2012, the petitioner was given an opportunity of hearing. Exoneration from the criminal case would have no bearing since the university itself had informed the respondents that it had not issued the degree. It is not within the purview of this court to sit in judgment as to whether the certificate issued is genuine or not. Once the University holds that it had not issued a degree with Serial No. 263786 which matched the Serial number of the degree of the petitioner, nothing survives for adjudication.

10. In view of the above, the writ petition is dismissed.

29.03.2017

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.