

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.19196 of 2014

Date of decision: March 03, 2017

1.

Smt. Shanti Devi

....Petitioner

Versus

State of Haryana and others

....Respondents

2.

CWP No.19538 of 2014

Kamaljit Kaur and others

...Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present :- Mr. S.S. Sahu, Advocate
for the petitioner (*in CWP No.19196 of 2014*).

Ms. Rumpa Ghorai Saha, Advocate
for the petitioner (*in CWP No.19538 of 2014*).

Ms. Shruti Jain Goyal, AAG, Haryana
for the respondent-State.

Mr. Rajesh Sheoran, Advocate
for respondent No.6 (*in CWP No.19538 of 2014*).

AJAY TEWARI, J.(ORAL)

This order shall dispose of the aforesaid writ petitions as similar questions of law and facts are involved therein.

By way of these writ petitions, petitioners have challenged the termination of their engagement as Anganwari workers after they had put in between 3-7 years. The ground taken for termination of their engagement was that the Board from which they had passed their matriculation examination i.e. Board of Higher Secondary Education,

Delhi, was not recognized by the Council of the Board of Schools Education or by the Ministry of Human Resources Development. It was, however, admitted that at one stage, the Board from which the petitioners had passed their matriculation had been included in the list being equivalent to the matriculation education. The case of the petitioners is that they had no knowledge that the Board from which they had got the matriculation degree was not recognized and at the time of their appointment all their original certificates were checked by the Selection Committee and there was no allegation of any *mala fide* against the petitioners.

Learned Assistant Advocate General has accepted all these facts but has raised two objections. As per her, a person who does not possess the essential qualification, cannot raise a claim since the engagement was *void ab initio*. Her second objection is that the Anganwari helper's post is not even a post under the State Government and engagement of the petitioners as such, would not qualify as public appointment and consequently, no relief can be granted to the petitioners.

Learned counsel for the petitioners have relied upon the decision of a Division Bench of this Court in *Union Territory, Chandigarh and others Vs. Paramjit Kaur and others reported as 2016 (2) SCT (750)*, which reads as follows:-

“6. It is a case where there is no material to show that respondent No.1 was aware that the University who had domain over the college in which she studied and obtained Matric and Intermediate certificates was a fake University as it was derecognized by the University Grants Commission. It is not a case where

respondent No.1 with a mala fide intention was a party to the issuance of such certificates to her. It appears that she had studied in the college run by the University and obtained such certificates without actually knowing that it was a University which was derecognized by the University Grants Commission. At any rate, with such certificates issued by a fake University she cannot continue in service. But the question that survives for consideration is whether she can be given an opportunity to qualify herself on compassionate ground that she had already put-in about 5 years of service without knowing the consequences of the certificates obtained by her.

7. In Ram Bhagat Sharma (supra), a co-ordinate Bench of this Court has held as follows:-

“ In the result, the writ petitions are dismissed. With a view to protect the interest of the students community, we direct the Government of Haryana to take steps to prevent future recruitment of persons possessing qualifications awarded by Hindi Sahitya Sammelan, Allahabad, and/or Hindi Sahitya Sammelan, Prayag, Allahabad, and at the same time take appropriate measures to dispense with the services of unqualified teachers. For this purpose, the Government of Haryana is directed to issue written instructions to all concerned that in future no appointment be given to the persons possessing qualifications by the institutions referred to here-in-above. We also direct the Government of Haryana to take steps for terminating the services of all such teachers who have secured employment on the basis of degrees/diplomas/certificates issued by Hindi Sahitya Sammelan, Allahabad and/or Hindi Sahitya Sammelan, Prayag, Allahabad. However, those who have completed three years services should be given an opportunity to acquire the requisite qualification within a stipulated time. In case they fall to acquire the

requisite qualification within a stipulated time. In case they fall to acquire such qualification, then appropriate order be passed to dispense with the services of such persons.”

8. In the above case also, the certificate obtained from a fake University was produced. The co-ordinate Bench of this Court has held that such a person cannot be given an appointment on the basis of production of a fake certificate. But considering the length of service he/she had put-in, an opportunity was given to acquire the requisite qualification within a stipulated time.”

There is some merit in the arguments of learned counsel for the petitioners. In these circumstances, the question which survives is as to what relief can be granted to the petitioners. Since there is some merit in the argument of learned Assistant Advocate General also that the petitioners can not be held to have been appointed to a post, resultantly, they cannot be reinstated. However, keeping in view the judgments abovesaid, it is directed that in case the petitioners attain the recognized qualification on or before 31st July, 2018 they can again apply for the Anganwari Worker and they be given preference, and if required, age relaxation also be granted to them.

Petitions are disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 03, 2017
m. sharma

(AJAY TEWARI)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No