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

CWP 21654 of 2014

Date of Order: **29.3.2017**

Tarlok Chand

....Petitioner

Versus

State of Punjab and Ors.

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. R.K. Arora, Advocate for the petitioner.
Mz. Sudeepti Sharma, DAG, Punjab assisted by
Smt. Sunita, Sr. Assistant O/o DEO (EE) SAS Nagar, Mohali.

JASWANT SINGH, J

1. The petitioner, who was appointed as ETT Teacher (Teaching Fellow) by the Department of School Education, Punjab in pursuance of Advertisement dated 05.9.2007, has invoked the jurisdiction of this Court under Article 226 of the Constitution praying for issuance of a writ of Certiorari for quashing the impugned order dated 21.10.2009 **(P.7)** vide which he has been removed from service on the allegation of producing bogus Certificate of experience at the time of recruitment and order dated 12.6.2014 **(P.16)** whereby his claim for reinstatement on the post aforesaid has been rejected; with further direction to the respondents to reinstate him with all consequential benefits.

2. It is contended by learned counsel for the petitioner that the action of the respondent is legally unsustainable in view of the fact that no marks of expereience were awarded to the petitioner for selection to the post of Teaching Fellows on the basis of alleged

fake experience Certificate.

3. On the other hand, learned counsel for the respondent State has contended that the experience certificate submitted by the petitioner was not found to be genuine by the Committee therefore he has rightly been terminated from service.

Heard learned counsel for the parties and perused the paper book with their able assistance.

A perusal of termination order dated 21.10.2009 (P.7) reveals that as per the report of the Committee, the Experience Certificate of the petitioner obtained from National School, Khanpur for one year and eleven months has been found to be bogus and the petitioner was not able to produce any evidence to justify the same and thus the appointment given to the petitioner was cancelled and he was ordered to be removed from service with immediate effect.

A further perusal of the information dated 10.11.2009 supplied under the RTI Act by the office of District Education Officer (EE), SAS Nagar reveals the correct position of marks awarded to the petitioner for the selection in question, which read as under:

Sr. No.	***Quali-fication***	***Uni./ Board***	***Total Marks***	***Marks Obtained***	***Year***	***%age/Division***	***35% conversion & other weightage as per criteria***
1	B.A	P.U.	2400	1157	1997	48.21/3rd Div	16.87
2	B.Ed.	Uni. Of Kashmir	1100	747	2005	67.91/1st Div.	23.77
3	M.A	P.U	800	338	2004	42.25/3rd Div	4
4	No. of 6 months completed after passing B.Ed.						4
				Total Merit Marks			48.64

> *"The experience certificate pertains to National Public School, Khanpur. This certificate was not countersigned. No mark for this experience certificate has been added in the merit."*

A perusal of the information supplied by the DEO clearly reveals that no mark for the Experience Certificate has been added in the merit of the petitioner and this being the position it is not conceivable as to how the petitioner has cheated the Department by obtaining the employment on the basis of Experience Certificate obtained from National School, Khanpur for the period from April 2005 to May 2007.

Thus, as a matter of fact, the petitioner has not obtained any benefit on the basis of the alleged Experience Certificate from National School, Khanpur rather he was selected on the basis of his marks of his Educational qualification. It seems that the order impugned has been passed without due application of mind and nowhere discloses that the petitioner has been extended any benefit on the basis of Experience Certificate.

4. Still further, there is one another letter dated 19.12.2012 (P.14) issued by the office of D.E.O, SAS Nagar addressed to the Director of Public Instructions (EE), Punjab to the effect that "It is also made clear that the experience certificate which was produced by the candidate was from National Public School, Khanpur. No mark for this experience certificate was added in themerit list of this candidate because the said certificate was not countersigned by the concerned officer.

Consequently, both the impugned orders are without any due application of mind and legally unsustainable.

5. Similar controversy came up for hearing in CWP No.14203 of 2015, decided on 05.8.2016, the relevant part of the same reads as under:

> *"Moreover, there is no evidence on record to prove that this period of five months and eight days (3.10.1996 to 10.3.1997) was taken into consideration while granting the seven marks to the petitioner at the time of her selection. Rather, the petitioner has specifically made averment in para 5 of the writ petition to the following effect:*
>
> > *"However, her experience certificate dated 26.11.99 for the period 03.10.1996 to 10.3.1997 (5 months and 8 days) was not taken into consideration while calculating her merit and the same was ignored on the ground that the said certificate is not countersigned by the District Education Officer and the petitioner was allowed merit marks for her remaining experience by excluding her experience of 5 months 8 days from Govt. Sr. Sec. School, Kothala from 03.10.1996 to 10.3.1997."*
>
> *This factual aspect has not been controverted by the respondents in their reply.*
>
> *As a sequel of aforesaid discussion, present petition is allowed and the impugned order dated 22.10.2014 (P.22) passed by respondent No.2/DPI (EE), Punjab and the order dated 22.10.2009 (P.6) passed by respondent No.3/DEO (EE), Barnala are set aside and the petitioner is ordered to be reinstated in service with all consequential benefits flowing therefrom."*

In view of aforesaid, present petition is allowed and the impugned order dated 21.10.2009 (P.7) and order dated 12.6.2014 (P.16) are set aside and the petitioner is ordered to be reinstated

in service with all consequential benefits flowing therefrom. It is further directed that the petitioner shall be reinstated forthwith and the arrears of salary etc will be calculated and released to the petitioner, positively within 3 months from the receipt of certified copy of the order, failing which the petitioner will be entitled to award of interest at the rate of 9% from the date of accrual till the date of actual payment, and the Department would be free to recover the same from the negligent official concerned. That apart, the respondents would also make themselves liable for being hauled up in contempt proceedings.

March 29, 2017 **(JASWANT SINGH)**
Manoj **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No