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

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Date of Decision : 08.05.2017

REKHA DHARIWAL

..... Petitioner

Versus

STATE OF HARYANA & ORS

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Tribhuwan Dahiya, Advocate with
Mr. Hardeep Singh Dahiya, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the show cause notice dated 17.09.2013 as well as order dated 24.12.2013 whereby her services were terminated.

Brief facts of the case are that in the year 1995 respondents advertised 38 posts of Principals in Government Senior Secondary Schools in Hayana Education Services (HES) Class-II and the petitioner applied for the same. The petitioner was selected as Principal by respondent No.4 in the year 1995 and was issued a letter of appointment on 17.03.1999. The petitioner joined as Principal on 19.3.1999.

After 14 years of service, by show cause notice Annexure P-7 she was informed that a preliminary enquiry had revealed that the experience certificates of Dr. Radhakrishan International School, New Delhi which she

had submitted was signed by one Mr. S.P. Gupta whereas at that time Mr. M.P. Bhatnagar was the Principal of the school; consequently it had been determined that she had committed a fraud, and she was asked to show cause why her services not be terminated. She was granted time till 31.10.2013. By letter Annexure P-8 she requested the respondents to give her a copy of the preliminary report and the other material on the basis of which preliminary report was submitted. Nothing was done. On 10.12.2013 she moved an application seeking leave from 16.12.2013 to 24.12.2013 on account of the marriage of her daughter. That leave was admittedly sanctioned and granted. However two days later i.e. on 12.12.2013 she was directed to appear in the office personally on 13.12.2013 or on 16.12.2013 for giving reply to the show cause notice after inspection of record. She again informed the respondents that she had already been sanctioned leave from 16.12.2013 to 24.12.2013 on account of the marriage of her daughter and it would not be possible for her to attend the office at such short notice. She also mentioned that on 28.10.2013 she had requested to supply her documents and a period of 15 days thereafter to submit the reply because the allegations pertained to a period 3 decades prior, but instead of that she was given 2 days time to file the reply. Notwithstanding this prayer, and after holding that regular enquiry would not be practicable, the impugned order was passed terminating her services on the ground that the petitioner was not fulfilling the requisite qualification of 8 years teaching experience after B.ED and just to make herself eligible for the post in question the petitioner intentionally annexed bogus experience certificates with the application form and that is why the present petition has

been filed.

The argument of learned counsel for the petitioner as regards Dr. Radhakrishnan International School, New Delhi is that in view of the fact that enquiry officer gave his finding only by default and had unequivocally stated that no record had been presented before her to substantiate the allegation, it was all the more incumbent upon the respondents to have given the petitioner a reasonable opportunity to substantiate her claim, and as regards the allegation about Vivekanand International School, his argument is that this was never part of the show cause notice and consequently the petitioner had no chance to explain it. He further states that petitioner has no objection in facing an enquiry even now.

These two aspects have neither explained in the written statement nor the learned Assistant Advocate General had been able to show me how the action can be justified. In the circumstances, I have no option but to set aside the impugned order of the termination of the services. However that would not result in automatic release of consequential benefits to the petitioner. It is directed that the respondents would issue her regular chargesheet within 1 month from the date of the receipt of a certified copy of this order. The petitioner would be granted a period of 30 days to file reply. Thereafter the respondents would have 3 effective dates spread over a period of 2 months to lead their evidence and similarly the petitioner would get 3 opportunities spread over 2 months to lead her evidence. The disciplinary proceedings must be completed on or before 31.12.2017 and any consequential relief to the petitioner would be dependent on the order to be passed in the disciplinary

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proceedings. In case the disciplinary proceedings are not completed on or before 31.12.2017 (subject to the petitioner not obstructing the same) she would be entitled to all consequential benefits of this order setting aside her termination and would be entitled to all retiral benefits also.

The instant petition stands disposed of in the above terms.

A copy of this order be handed over the learned Assistant Advocate General as well as learned counsel for the petitioner under the signature of the Bench Secretary so that time limits can be adhered to.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

May 08, 2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No