

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-655-2016

Date of decision: 16.11.2018

Kuldai Negi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kamal Singh, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. K.K. Gupta, Advocate for respondent No. 3.

Ritu Bahri, J. (Oral).

The petitioner is seeking direction to the respondents to promote her from the post of Peon to Clerk keeping in view that persons junior to her have been promoted who were matriculate. A further prayer for quashing letters dated 31.07.2009 (Annexure P-3) and 31.03.2009 (Annexure P-2) vide which the Haryana Education Board has given a contradictory opinion with regard to the students qualified from Hindi Sahitya Samelan Allahabad to the effect that the recognition is given for entry in higher classes and there is no equivalency in qualification with the Haryana Education Board.

The case of the petitioner is that the father of the petitioner died during service and she was given appointment on compassionate grounds as per Haryana Government policy on the class IV post on 09.11.1999. Thereafter the petitioner qualified matriculation from Hindi Sahitya

Samelan, Allahabad in the year 2007-08. Annexure P-1 is the copy of the certificate dated 20.05.2008.

As per Haryana Government notification dated 24.07.1998, it was clarified that all Peons shall be promoted to the post of Clerk to the extent of 20% of clerical cadre. Similarly situated persons like the petitioner approached the authority and have been promoted from Peon to Clerk who have qualified 10th class from the National Open Board, New Delhi. The petitioner approached the Department to consider her claim for promotion. The General Manager, Irrigation Department, Haryana, sought verification from Secretary, Board of School Education Haryana, Bhiwani with regard to matriculation examination certificate issued by the Board other than the Haryana Board. Vide letter dated 31.07.2009 (Annexure P-3), the Board of School Education Haryana, Bhiwani had clarified that the name of the Hindi Sahitya Samelan, Allahabad is not in the recognized list of the Board of School Education Haryana, Bhiwani. The petitioner has placed on record a letter dated 09.11.2009 (Annexure P-4) whereby information has been sent by Government of India to Dehara Public School, Dehradun that examinations conducted by Hindi Sahitya Samelan have been granted recognition equivalent to matric for employment in the Central Government Department till 2010. Thereafter the petitioner approached the Chief Engineer and her case was rejected vide letter dated 03.07.2012 (Annexure P-5). While rejecting the case, reference has been made to letter dated 27.03.2009 whereby it has been stated that Hindi Sahitya Samelan, Allahabad is not in the list of recognized School by the Haryana Government and the Government was requested to convey the position whether clarification of Education Board of Haryana was to be accepted and

clarification of Ministry of Human Resources Development of Higher Education was to be accepted and in this backdrop, the writ petition was filed.

On notice of this petition, the respondents have filed written statement and they have placed on record a letter dated 28.01.2008 (Annexure R-1) whereby the petitioner has sought permission for doing matriculation from Dehradun Uttranchal Board and she was granted permission vide letter dated 01.02.2008 (Annexure R-2) but the petitioner has done matriculation from Hindi Sahitya Samelan Allahabad. After doing the matriculation from Hindi Sahitya Samelan, she made a request on 25.11.2008 for promotion to the post of Clerk. The Department sent her matriculation certificate for verification on 20.07.2009 (Annexure R-3) and the Board of School Education Haryana, Bhiwani intimated to the Department vide letter dated 31.07.2009 (Annexure P-3) that Hindi Sahitya Samelan, Allahabad is not in the recognized list of Board of School Education Haryana, Bhiwani and in this backdrop her case has been rejected vide order dated 26.03.2010 (Annexure R-4). This letter was communicated to the petitioner. She again made a request to the Department vide letter dated 24.05.2010 (Annexure R-5) that she be granted permission for again doing matriculation. The Department again granted her permission vide letter dated 14.06.2010 (Annexure R-6) for doing matriculation. After getting this permission, she failed to get her matriculation certificate from recognized Board of Govt. of Haryana. Then again, she made a representation to the Department on 20.03.2012 for giving her promotion on the basis of her earlier certificate of matriculation and thereafter the Department has referred the matter to Govt. vide letter

dated 03.07.2012 (Annexure P-5) to convey the decision that whether clarification of Education Board of Haryana is accepted or clarification of Ministry of Human Resources, Govt. of India is to be accepted. The Government of Haryana vide letter dated 09.08.2016 (Annexure R-7) has decided that the petitioner cannot be considered for promotion to the post of Clerk because the Secretary Board of School Education Haryana, Bhiwani vide memo dated 31.03.2009 (Annexure R-10) has already intimated that matriculation done by Hindi Sahitya Samelan is not equivalent to the examination held by Board of School Education, Haryana and the Department has conveyed vide letter dated 05.09.2016 (Annexure R-8) to the petitioner.

With regard to promotion of Mohinder Pal, Munni Devi, Sanjay Kumar and Sandeep Kumar, they have passed their matriculation examination from National Institute of Open School New Delhi which is recognized by the Board of School Education Haryana, Bhiwani with the condition that they should pass the matriculation examination with atleast 5 subjects and have been promoted vide order (Annexure R-9).

After going through the contents of this writ petition, it deserves to be dismissed. The petitioner's case was considered initially and rejected for promotion vide order dated 26.03.2010 (Annexure R-4) and this order was passed by the General Manager and has never been challenged by the petitioner. At the same time, after this order was passed, the petitioner made a request to the Department for permission to do matriculation from the recognized Board and the petitioner again made application on 24.05.2010 (Annexure R-5) for doing matriculation and this request was accepted vide letter dated 14.06.2010 (Annexure R-6). After 14.06.2010 till

date the petitioner has not qualified matriculation from recognized Board as per the recognized list of Board of School Education Haryana, Bhiwani and in this backdrop, the Department had sought decision from the Govt. of Haryana whether the clarification of Educationa Board of Haryana is to be accepted or clarification of Ministry of Human Resources is to be accepted. The State Government has clarified vide letter dated 09.08.2016 (Annexure R-7) that the examiation held by Hindi Sahitya Samelan, Allahabad is not equal to the examination held by Board of School Education, Haryana and has rejected the case of the petitioner for promotion to the post of Clerk. The decision of Govt. has also been conveyed to the petitioner vide letter dated 05.09.2016 (Annexure R-8).

I find no merit in the case. Hence, the present writ petition is dismissed.

16.11.2018
Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No