

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

CWP-20156-2014 (O&M)
Date of decision : 08.11.2019

Sudesh Bajaj

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Arora, Advocate,
for the petitioner.

Ms. Anju Arora, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

Prayer in the instant petition is for quashing of order dated 17.02.2014 (Annexure P-10), whereby, the petitioner has been dismissed from service and order dated 10.06.2014 (Annexure P-12), whereby, her appeal against order of dismissal stands rejected. The petitioner has also sought quashing of charge sheet dated 10.12.2010 (Annexure P-1) and inquiry report dated 27.09.2012 (Annexure P-3).

It is contended that the petitioner joined the services of the respondent-Department as Science Mistress on 31.10.1977 on *ad hoc* basis. Her services were regularized on 01.10.1980. Thereafter, she was appointed to the post of Headmistress by way of direct recruitment on 06.11.1989 and further promoted as Principal in PES (School and Inspection) Cadre on 03.07.1997. She was assigned charge of Deputy District Education Officer on 23.07.2003 and thereafter, as District Education Officer on 18.09.2007.

It is further contended that in September 2007, the department issued an advertisement for recruitment of 9998 posts of ETT Teachers (Teaching Fellows). Due to this selection process, the office received about 2700 experience certificates of different candidates for countersigning. The petitioner countersigned all these certificates in a fortnight after each and every certificate was dealt with on two different desks before the same were put up before her. After the selection process, out of about 2700 experience certificates countersigned by the petitioner, one certificate of a candidate, namely, Raj Kumar S/o Om Parkash was found incorrect. The said certificate was issued by the Headmaster of the Govt. High School, Pherurain Acharwal, District Ludhiana. The petitioner was served with a charge-sheet dated 10.12.2010 (Annexure P-1) under Rule 8 of the Punjab Civil Service Rules (P&A) Rules 1970 on the charge of countersigning the experience certificate without proper verification and negligence towards her duties. The petitioner denied the charges. An inquiry was marked against the petitioner and the inquiry officer vide inquiry report concluded as under.-

"Hence it is clear that the C. O. did not make proper personal verification before countersigning the aforementioned experience certificate and countersigned the same in routine. Thus, the C. O. has performed her duties with negligence. "

Consequently, respondent No.1 passed impugned order dated 17.02.2014 (Annexure P-10), whereby, the punishment of dismissal from service was imposed upon the petitioner. The petitioner filed her detailed

appeal dated 10.06.2014 (Annexure P-11) before the Minister-Incharge, Department of Education, Punjab. The said appeal was treated as Review as per Rule 21 of the Punjab Civil Services (P&A) Rules, 1970 by respondent No.1 and the same was rejected vide order dated 10.06.2014 (P-12) on the ground that the petitioner has not produced any new fact.

Learned counsel contends that while imposing severest punishment of dismissal from service on the solitary charge of negligence, the respondents have not taken into consideration her 36 years of her service and date of her superannuation i.e. 31.10.2015. It is further contended that the petitioner has been discriminated against as no action has been taken against the officer/officials who actually verified/checked the certificates before putting them before the petitioner. Similar experience certificates were countersigned by different District Education Officers in other districts and some were found incorrect. Accordingly, 61 Education Officers were issued charge-sheets, however, none has been slapped with a punishment as severe as dismissal, except the petitioner. Learned counsel further refers to document Annexures P-14, P-15 & P-16, wherein the petitioner was given various appreciations for carrying out the work assigned to her very effectively and with sincerity. It has also been certified by the District Education Officer (SE), Ludhiana in the letter of appreciation (P-16) that her conduct is shining example for others and it is difficult for him to find out any demerit in her behavior.

On the other hand, learned State counsel submits that the punishment of dismissal has been imposed upon the petitioner as her work and conduct has been unsatisfactory earlier also, which is apparent from the

fact that she was awarded several punishments during her service tenure at earlier point of time. The petitioner was inflicted with the punishment of stoppage of one increment vide order dated 02.03.2012 and punishment of censure vide order dated 07.03.2012. She was also found guilty of not implementing the Court order dated 30.07.2008 passed in COCP No.1270 of 2012 and accordingly, she was given punishment of censure vide order dated 10.07.2013.

At this stage, learned counsel for the petitioner submits that the petitioner has already challenged those punishments in different writ petitions which are listed along with this petition. Further, the punishments imposed upon the petitioner vide orders dated 24.02.2012 and 05.03.2012 have already been set aside by this Hon'ble Court in C.W.P. No. 28679 of 2013 decided on 31.05.2016.

Heard.

It is admitted case of the respondents that the experience certificate in question was examined by two officials before the same was put up before the petitioner. The minor punishment imposed on Sh. Prem Chand Gupta, Sh. Roshan Lal Sood and Sh. Avtar Singh have also been admitted. Thus, the assertion with regard to discrimination meted out to the petitioner cannot be said to be unfounded *inasmuch* as the other officers/officials who actually issued the experience certificates and checked/verified the same before putting them before her were neither charge-sheeted nor adversely dealt with. Moreover, similar experience certificates were also countersigned by the different District Education Officers in other districts and on verification certain experience certificates

were found incorrect in different districts. Accordingly, a total number of sixty one Education Officers, were charge-sheeted on similar charge of countersigning the certificates without proper verification. In all cases, the enquiries were conducted by the same officer and charge of negligence proved against them by Enquiry Officer. A perusal of the RTI information (Annexure P-5) reveals that all the other officers have been awarded only minor punishments, whereas, only the petitioner has been given the severest punishment of dismissal from service. It is also to be noted that the enquiry officer did not prove any *mala fide* and connivance on the part of the petitioner.

It is also the stand of the petitioner that she was never served notice during the enquiry proceedings. It is stated that notice dated 30.05.2013 was never served upon the petitioner because from 01.06.2013, the school was closed due to summer vacations and no effort was made by respondent No.1 to serve the petitioner through the District Education Officer or through special messenger because she was in service at that time. The respondents, on the other hand, have also not placed on record any cogent material to infer that the petitioner had been properly served.

This Court vide order dated 04.12.2018 directed the State to file an affidavit indicating the service record of the officers charge-sheeted along with the petitioner as reflected in Annexure P-5 and the punishment imposed upon them. An affidavit dated 03.07.2019, has been filed in the Court today, which is taken on record as Mark 'A'. A perusal thereof clearly shows that all the officers who were issued charge-sheets along with the petitioner for the same charges, have been given minor punishments and

only the petitioner has been given the severest punishment of dismissal from service after her 36 years of service.

In view of the above discussion, this court is of the view that the punishment of dismissal from service imposed upon the petitioner is harsh and disproportionate to the offence committed. Consequently, impugned order dated 17.02.2014 (Annexure P-10) and order dated 10.06.2014 (Annexure P-12) are, hereby, quashed. Respondent No.1 is directed to reconsider the matter and pass an order afresh by keeping in view the punishments imposed upon similarly placed officers who were issued charge-sheets along with the petitioner. Needless to mention, the punishments earlier imposed upon the petitioner including the ones assailed in CWP Nos.24002 of 2014, 7324 of 2015 and 19658-2015, pending adjudication before this Court, shall not have any bearing while passing the order, as above. The needful be done within two months from the date of receipt of copy of this order. The petitioner will be paid all consequential benefits on the basis of fresh order so passed within a period of further two months.

Disposed of in the above terms.

08.11.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No