

**235 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.20960 of 2014.

Date of Decision: 21.08.2019

Gurjinder Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Rajinder Sharma, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG Punjab.

JITENDRA CHAUHAN J.

Through the instant civil writ petition, the petitioner has sought quashing of (i) orders dated 23.08.2010 (Annexure P-11 and P-12) passed by respondent No.2, vide which the petitioner was removed from service; (ii) order dated 18.11.2013 and order dated 28.04.2014 (Annexure P-15 and P-16) passed by respondent Nos.2 and 6 respectively vide which the experience certificate furnished by the petitioner was held to be bogus.

In pursuance to advertisement dated 02.09.2007 (Annexure P-1) issued by the Director Public (Elementary Education) Punjab-cum-Chairperson inviting applications for filling up 9998 posts of JPB/ETT Teachers, the petitioner applied for the same under Backward Class category. The petitioner scored 65.549 marks which included marks towards experience gained by her while working as Teacher in Government High School Gill Khanpur Dhadda (Jalandhar).

Ultimately, she was selected and appointed on the aforementioned

post.

Thereafter, vide letter dated 13.01.2009, respondent No.4 sought reply from the petitioner with regard to genuineness of her experience certificate. A similar letter was also issued to Head Master of Government High School-respondent No.5 to produce the record pertaining to experience certificate. The Experience Certificate (Annexure P-5) was issued by respondent No.5 and countersigned by respondent No.4 i.e. District Education Officer (Secondary), Jalandhar. Respondent No.5 appeared before respondent No.4 and got recorded his statement on 05.02.2009 (Annexure P-7) confirming that the petitioner had worked as Teacher in the school out of PTA funds for the period mentioned in the experience certificate. The Head Master had also produced the record of attendance register for the period from May 1997 to 15.08.2000 and from April 2003 to 23.12.2014. A checking officer had also visited the concerned school in order to verify the Experience Certificate. Vide report dated 22.10.2009 (Annexure P-7A), the checking officer gave finding that the Experience Certificate was genuine. The petitioner had also appeared before the Enquiry Committee on 04.11.2009 and submitted the required documents. Respondent No.4 appeared before Inquiry Committee and made categorical statement (Annexure P-7) that he knew the petitioner well. He clarified that the certificate in question had been issued by the then Head Master Kashmir Singh and he identified his signatures. Teachers' attendance record for the period

from May 28 1997 to 15.08.2000 showing the name of the petitioner was also produced. The petitioner had also placed on record residence proof of village Gill and the resolution of the Gram Panchayat. However, vide letter dated 23.08.2010 issued by respondent No.4, the experience certificate was found to be bogus and forged on the ground that the petitioner could not place on record any document substantiating the genuineness of the certificate. This was followed by termination order passed on the same date i.e. 23.08.2010 (Annexure P-12). The petitioner had approached this Court by way of CWP No. 16888 of 2010 against the termination order which was disposed of with a direction to the respondents to reconsider the case of the petitioner (Annexure P-13).

It is contended that the experience certificate (Annexure P-5) is for the period from November, 1993 to December, 1994 and June, 1997 to August, 2000. In the inquiry proceedings, Sh. Prem Pal In-charge of Govt. High School Gill Khanpur Dhadda District Jalandhar appeared and produced record for the period from 28.05.1997 to 15.08.2000 and proved the name of the petitioner in the attendance register, however, he made a statement that the record for the period from 04/94 to 12/94 was not available. The petitioner in support of her experience certificate produced various documents vide receipt dated 04.11.2009 (Annexure P-10). The petitioner appeared before the Inquiry Committee and produced the record pertaining to the period from 11/93 to 12/94. The Inquiry Committee passed order

dated 18.11.2013 upholding the objection that the experience certificate was bogus on the grounds:-

“(i) As per attendance register on 28.11.1993 it was Sunday but the candidate had marked her presence.

(ii) Attendance columns for December, 17, 18 and 20 for the year 1993 have not been filled without showing any reason;

(iii) Attendance register produced by in charge of the school Sh. Prem Pal for the year from 28.05.1997 to 15.08.2000 shows only name of the petitioner in PTA register.”

Consequent upon inquiry report dated 18.11.2013 (Annexure P-15) order dated 28.04.2014 (Annexure P-16) was passed upholding the objection that the experience certificate was bogus and ordering the dismissal of the petitioner from service.

On the other hand, on behalf of the respondents, it is contended that the petitioner has concealed the material facts that she had used bogus experience certificate for the period from 16.11.1993 to 28.12.1996 and July, 1997 to August, 2000 alledgedly issued by Government High School, Gill Khanpur Dhada, District Jalandhar for recruitment to the post of Teaching Fellow. The certificate submitted by the petitioner was verified by the District Level Inquiry Committee and the same was found bogus because the petitioner could not produce any material evidence in support of her claim. As the petitioner obtained job by cheating the department and violated condition No.9 of the offer letter which stated “If at any time your

academic professional eligibility certificates are found to be fake or bogus, your contract will be deemed to be cancelled and you will be booked under civil and criminal acts and payments made to you will be recovered with 15% interest.” After giving opportunity of hearing, her appointment was cancelled vide order dated 23.08.2010 (Annexure P-11). A detailed inquiry (Annexure P-15) was held in which the petitioner had failed to submit any material evidence to prove the genuineness and authenticity of the experience certificate for the period 16.11.1993 to 28.12.1996 and July, 1997 to August, 2000.

Heard.

The core issue which needs to be adjudicated is as to whether the experience certificate (Annexure P-5) issued by respondent Nos. 4 & 5 to the petitioner is genuine or not. The petitioner was initially appointed as JBT/ETT Teacher on 27.10.2008, in pursuance to the advertisement dated 02.09.2007 (Annexure P-1) issued by the Director Public (Elementary Education), Punjab. She had scored 65.549 marks which included marks of experience gained by her while working as Teacher in Government High School Gill Khanpur Dhadda, Jalandhar. However, after about three months, the District Education Officer (EE), Jalandhar issued a letter (Annexure P-5) to the petitioner to prove the genuineness of the experience certificate. A similar letter was issued to the Government High School Gill Khanpur Dhadda (Jalandhar), which had issued the experience certificate to the petitioner. In pursuance to the said letter, Head

Master, Government High School Gill Khanpur Dhadda, Jalandhar appeared before the District Education Officer (EE) and admitted the issuance of Experience certificate and also produced part of attendance register from May 1997 to 15.08.2000 and April 2003 to 23.12.2014 but showed his inability to trace the attendance register for the period from April 1994 to December, 1994 (Annexure P-7). Thereafter, a Checking officer visited the concerned school, checked the record, interacted with the school staff and returned a finding, vide report dated 22.10.2009 (Annexure P-7A), that the certificate in question was genuine. The petitioner had appeared before the Enquiry Committee and produced resolution passed by the concerned Gram Panchayat, attendance register showing presence of the petitioner, Group photographs of all the school members, residence proof of village Gill (Annexure P-8 and P-9). The Experience Certificate was signed by respondent Nos. 4 & 5. Respondent No.4 had also appeared before the Enquiry Committee and made a categorical statement (Annexure P-7) that he knew the petitioner well being his colleague at the relevant time. He identified the signatures of Head Master, Kashmir Singh. Moreover, the competent authority had put a note on the Experience Certificate that the petitioner had worked as Teacher and was paid out of PTA funds, meaning thereby, the certificate stood proved. Even this Court has gone through the inquiry reports (Annexure P-15 and P-16). The relevant paragraph is reproduced as under:-

“As per the preliminary inquiry of experience certificate of

the candidate was done by Sh. Bishan Dass, B.P.E.O. East-3, Jalandhar, as report dated 19.12.2008 of Incharge of the school Smt. Gurjinder Kaur had worked from 16.11.1993 to 28.02.1994 no record is available for the period from 6/1997 to 8/2000. Besides this the candidate along with her application appended attendance register, attendance register of teachers of PTA and photocopies of the resolutions. As per attendance register on 28.11.1993 is Sunday but the candidate had marked her presence. For December 17, 18 and 20 of December, 1993 attendance columns are blank without assigning any reasons. From this record, it is not proved that experience certificate of the candidate was correct.”

This Court is of the opinion that there was no basis for the Enquiry Committee to hold the certificate to be bogus. The finding is without any evidence on record. The mere fact that presence on 28.11.1993 which happens to be Sunday is marked does not render the certificate to be bogus particularly when the Head Master of the concerned School had deposed that the petitioner had worked for the relevant period coupled with the fact that a checking officer, vide report Annexure P-7-A, had reported that the certificate is genuine as the petitioner had worked with the school from November, 1993 to December, 1994 and June 1997 to August, 2000. Not only this, the petitioner had also placed on record the group photographs with the staff for the session 1993-94 which proves that the experience certificate is genuine.

In view of the above, the present civil writ petition is

allowed. The impugned orders dated 23.08.2010 (Annexures P-11 and P-12) and orders dated 18.11.2013 and 28.04.2014 (Annexures P-15 and P-16) are hereby quashed. The petitioner be reinstated in service with all consequential benefits. The necessary exercise be completed within a period of two months from the date of receipt of certified copy of the judgment.

21.08.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No