

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

**CWP No.8317 of 2015
Date of decision:05.12.2019**

Manish Kumar

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikas Chatrath, Advocate with
Ms. Jasleen Kaur Advocate and
Mr. Abhishek Chauhan, Advocate
for the petitioner.

Mr. Vikas Mohan Gupta, Addl.A.G.Punjab.

SUVIR SEHGAL J.

The petitioner has approached this Court for issuance of a writ in the nature of certiorari for quashing the order dated 07.04.2015 (Annexure P-14) vide which his appeal has been rejected. He has further sought quashing of the charge sheet (Annexure P-7), enquiry report (Annexure P-10) and consequential dismissal order dated 10.07.2014 (Annexure P-5) with a direction to the respondents to re-instate him into service.

The facts in brief are that in pursuance to Advertisement (Annexure P-1), the petitioner had applied for the post of D.P.E. Master on the strength of experience certificate dated 01.04.2008 (Annexure P-3). He was selected and appointed vide letter dated 27.09.2008 (Annexure P-2). On 26.12.2013, he was charge-sheeted on the allegation that he had submitted a

wrong experience certificate. He submitted his reply denying the charges. An enquiry officer was appointed who gave his report dated 28.04.2014 (Annexure P-10) whereby he came to the conclusion that the petitioner had submitted a wrong certificate of experience to the Selection Committee. After filing the statutory appeal, the petitioner filed CWP No.21624 of 2014 titled as 'Manish Kumar Vs. State of Punjab and others' before this Court which was disposed of on 25.11.2014 (Annexure P-12) with a direction to the appellate authority to decide the appeal by passing a speaking order after giving an effective opportunity of hearing to the petitioner. The petitioner filed the supplementary grounds before the appellate authority. However, his appeal was dismissed, vide impugned order dated 19.03.2015 which was communicated to him vide endorsement dated 07.04.2015 (Annexure P-14).

Upon notice, the respondents have filed their reply wherein they have submitted that the petitioner had obtained appointment on the basis of forged experience certificate, therefore, his services had rightly been dismissed after holding a regular enquiry. The petitioner filed the replication reiterating the stand taken in the writ petition.

Counsel for the parties have been heard and record has been perused with their able assistance.

While disposing of the CWP No.21624 of 2014 filed by the petitioner, this Court passed the following order on 25.11.2014:-

“The petitioner has been dismissed from service after an enquiry for submitting a “galat tazurba certificate”. The moot

issue before the competent authority was whether the period spent teaching on honorarium basis from 3.1.2000 to 2.1.2001 in a private school affiliated to the Punjab School Education Board could not have been counted towards experience as it was not earned on an aided post but should be counted towards experience earned in an institution affiliated to the Punjab School Education Board.

It is the contention that even if one mark is deducted from the marks of the petitioner by excluding the period of one year on an honorarium, he would still make it in the zone of selection. It is pointed out that the disputed period of experience has been taken as “galat” but not fake or forged and, therefore, the enquiry proceedings were mis-directed which have resulted in dismissal from service.

Be that as it may, since a statutory appeal under Section 15 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 is pending before the appellate authority and its views are not known, the petition is premature and is dismissed as such. However, since the statutory appeal has remained pending since 14.9.2014, the appellate authority would take up the matter and decide the statutory appeal within a period of 2 months from the date of receipt of a certified copy of this order by affording an effective opportunity of hearing to the

petitioner and passing a speaking order which would be communicated to the petitioner within 7 days thereafter.

With these directions, the petition stands disposed of.”

The appellate authority after hearing the petitioner as well as the department, dismissed the statutory appeal, vide order dated 19.03.2015.

The order passed by the appellate authority is reproduced hereinbelow:-

“Sh. Manish Kumar (dismissed) DPE, Govt. High School, Kular Khurd, Distt. Sangrur has filed an appeal on dated 14.09.2014 against the order No.6/190-2013E2(2) dated 10.07.2014 which was issued on 04.08.2014 by the DPI (SE) regarding termination of his services on account of bogus experience certificate. After considering the same, a notice was issued to Sh. Manish Kumar (dismissed) s/o Sh. Hari Parshad, Govt. High School, Kular Khurd, Sangrur, House No.52, Ward No.6, Indira Basi, Sunam, District Sangrur vide Govt. letter No.21/1268/2014-4Ed5/408355/1-3 dated 06.02.2015 for affording him an opportunity of personal hearing on 26.02.2015 and a notice was also issued to Director, Public Instruction (SE), Punjab and District Education Officer (SE), Sangrur to submit their defence on this date. On 26.02.2015, the documents were submitted by Sh. Manish Kumar (dismissed) and the representatives of DPI (SE) and the position as stated by them is as under:-

- (a) *Sh. Manish Kumar (dismissed) stated that D.P.I(SE), Punjab had issued him a charge sheet on the allegation that at the time of selection, he had submitted a wrong experience certificate which had been issued by the Adarsh Senior Secondary School, Sunam in January, 2000 for the period from dated 03.01.2001 to dated 03.11.2003 worked in the Adarsh Sr. Sec. School and procured service. Thereafter, he stated that his services had been terminated by DPI (SE), Punjab vide order dated 04.08.2014 whereas there was no fault of mine.*
- (b) *Besides this he submitted that the experience certificate which had been issued to him by Adarsh Sr. Sec. School, Sunman, Distt. Sangrur, there was no cutting in it, in case there was any cutting in the certificate of year 2000, experience of 3 ½ years instead of 2 ½ years was written in words which proves that cutting which appears in certificate does not make any difference. Therefore, he requested that correctness of his certificate may be considered and orders of D.P.I (Sr. Sec.) Punjab dated 04.08.2014 whereby his services were*

terminated may be cancelled.

- (c) *The representative of D.P.I (Sr.Sec.) Punjab present explained that Sh. Manish Kumar had been served with a charge sheet on 16.12.2013 by the D.P.I under Rule 8 of Punjab Civil Services (Punishment & Appeal) Rules 1970. The proper procedure had been adopted and it was established in the departmental enquiry that he had got employment by producing wrong Experience Certificate. The employee had produced experience certificate for the period 03.01.2001 to 03.11.2003 from Adarsh Sr. Sec. School, Sunam, Distt. Sangrur and had got employment, whereas as per record available, the employee had served in the above school from 03.01.2001 to 03.11.2003. On establishing the allegation that the employee had produced a wrong experience certificate before the Selection Committee at the time of scrutiny, the services of Sh. Manish Kumar had been terminated by the D.P.I (Sr. Sec.) Punjab vide order No.6/190-2013 A-2(2) dated 10.07.2014.*

2. *In view of the above facts submitted by Sh. Manish Kumar, D.P.E. Govt. High School, Kular Khurd, Distt. Sangrur during his personal hearing as well as record produced by representative of D.P.I (Sr.Sec.) Punjab, it was found that Sh. Manish Kumar (dismissed), D.P.E., had produced wrong and tampered with Experience Certificate from 03.01.2000 to 03.11.2003 at the time of his selection. In this connection, he had not produced any proof from which it could be established that the cutting in the certificate is genuine. Therefore, after consideration of the facts placed on record, office order No.6/190-2013 A-2(2) dated 10.07.2014 which was issued on 04.08.2014 is upheld and appeal dated 14.09.2014 of the employee is rejected.”*

A perusal of the impugned order, shows that the appellate authority has neither noticed the order passed by this Court nor it has kept in mind the observations made by this Court in its order dated 25.11.2014 (Annexure P-12). Not only this, the petitioner in para 11(v) and 11(vii) in his grounds of appeal (Annexure P-11) had specifically submitted before the appellate authority that for one year he had taken classes on honorary basis and insofar as the said experience is concerned, the same was liable to be taken into account as he had actually worked during that period. He had further submitted that even if the said period is not taken into account, he was still entitled to marks for the remaining two years' of service regarding which there is no dispute. However, the appellate authority has not dealt

with these contentions, nor has he referred to the grounds of appeal.

Still further, the appellate authority has failed to give any reasons in support of its order. The assigning of reasons is *sine qua non* for arriving at a conclusion by an administrative authority. An order without reasons is violative of the principles of natural justice and deserves to be set aside.

In this connection, reference may be made to a Division Bench judgment of this Court in **Gulab Singh Vs. Maharshi Dayanand University, Rohtak and others, 2004(6) SLR 295**, wherein it has been held as under:-

“It was necessary to reproduce the entire order passed by the Chancellor of the respondents-University to demonstrate that it does not fulfil the requirements of a speaking order. The order does not specify any reason which weighed with the Chancellor to dismiss the detailed appeal filed by the petitioner. The order does not even make a reference to the grounds of appeal. The order merely recites the sequence of proceedings till the passing of the order of dismissal. In Ram Chander's case (supra), it has been categorically held by the Supreme Court that the appellate authority must not only give a hearing to the government servant concerned, but also pass a reasoned order dealing with the contentions raised by him in the appeal. These observations in Ram Chander 's case (supra) were made by the

Supreme Court whilst interpreting the law laid down by the Supreme Court in the case of [Union of India v. Tulsiram Patel](#), 1985(2) S.L.R. 576. Under [Article 141](#) of the Constitution of India, the law laid down by the Supreme Court is binding.
.....”

In view of the above, the impugned order (Annexure P-14) passed by the appellate authority cannot be sustained and the same is quashed. The matter is remanded back to the appellate authority with a direction to decide the appeal afresh keeping in view the observations made by this Court in the order dated 25.11.2014 (Annexure P-12) after affording the parties an opportunity of hearing. It is further directed that the appellate authority will decide the appeal within a period of two months from the date of receipt of certified copy of this order.

Accordingly, the writ petition is disposed of.

(SUVIR SEHGAL)
JUDGE

December 05, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No