

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CWP No.5406 of 2018

Date of Decision: February 07, 2019

Asha Ram

.....Petitioner(s)

versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr. Lupil Gupta, Advocate for
Mr. J.P. Jangu, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

RITU BAHRI, J. (Oral)

The petitioner is seeking quashing of Show cause notice dated 23.02.2018 (Annexure P-9) as to why his services should not be terminated.

A perusal of the show cause notice shows that in the year 2003, the Department has advertised the post of Drivers on contract basis. As per the application form submitted by the petitioner, his driving licence No.2338 was issued on 24/09/1996 and was valid till 19.11.2003. As per the experience certificate No.185 dated 12.07.2002 issued by Bajrang Goods Transport Co., Nai Anaj Mandi, Rewari, petitioner has the experience from February 1994 to 12.07.2002. Since driving licence had been issued to him on 24.09.1996, the experience certificate was not correct and he had got the appointment on the basis of a wrong experience certificate. Before issuance of show cause notice, a detailed enquiry has been conducted.

Learned counsel for the petitioner also referred to the Enquiry Report (Annexure P-8). As per enquiry report, the experience certificate of the petitioner-driver was found to be genuine. In the enquiry report, it has been observed that actual experience of the Driver was from October 1996 and on account of a mistake, the year 1994 was written. Despite this enquiry report, the appointing authority has issued a show-cause notice for termination of the services of the petitioner.

The stand taken by the respondent in the written statement is that actually the experience certificate shows the experience from February 1994 and he could not have valid driving licence on that date and hence, show-cause notice has been rightly issued.

In the present case, the Show-cause notice deserves to be dismissed on the ground that the petitioner was appointed way-back in the year 2003 and on the basis of a complaint made on 07.12.2017, enquiry proceedings have been initiated against the petitioner. He has served for 14 years as a Driver with the Department. As per the enquiry report, in the regular enquiry, witnesses were examined to clarify that February 1994 was written wrongly.

Another point for consideration is that even if the experience of the petitioner has to be taken from 1996, he has served the department for 14 years without any complaint and is having experience from 1996 to 2003. Even if the experience is to be taken from 1996 onwards, the petitioner was appointed in the year 2003 and had an experience of almost 7 years when he was appointed as a Driver in the respondent-Company.

As per Paragraph No.2 of the written statement, it has been stated that he was appointed on contract basis having a valid driving licence with three years

experience. Hence even on the date of appointment from 1996 till 2003 he had an experience of 7 years, it is not the case of the respondent that he was not having requisite experience on the date of appointment. Hence, even if 2 years experience from 1994 is deleted from the experience certificate, the petitioner was qualified to be appointed as a driver. The Writ Petition is being allowed and show-cause notice is set aside.

Cost of Rs. 25,000/- is to be deposited in High Court Legal Services Authority.

February 07, 2019
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[RITU BAHRI]
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No