

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

CWP No. 6423 of 2020

Date of Decision: 06.03.2020

Bhanu Prashar

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Jagbir Malik, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J.

Petitioner, who was serving as Sanskrit Teacher under the Haryana State Education Department, has filed the instant writ petition assailing the order dated 28.02.2020 (Annexure P-7) passed by the District Elementary Education Officer, Gurugram and whereby his services have been terminated on the ground that his B.Ed. certificate from Chaudhary Charan Singh University, Meerut, has been found to be fake.

Facts in brief may be noticed.

Pursuant to an advertisement No.2/2006 issued by the Haryana Staff Selection Commission, petitioner applied for the post of Sanskrit Teacher. He was duly selected for the post in question and joined on 18.08.2009. Petitioner was served with a show cause notice dated 04.02.2020 alleging that the B.Ed. Certificate dated 28.08.2004 on the basis of which he had been appointed as Sanskrit Teacher is fake. Petitioner was afforded 15 days time to explain his position as regards the B.Ed. Certificate and was also directed to produce the original B.Ed. certificate. Petitioner submitted a reply dated 18.02.2020 (Annexure P-4). It is upon consideration of the reply furnished by the petitioner that the impugned order of termination dated 28.02.2020 has been passed.

Counsel for the petitioner has argued that the action of termination is in violation of Article 311 of the Constitution of India. It is contended that a member of any civil service under the State can be dismissed, removed or reduced in rank only after conducting an enquiry. Counsel urges that in the present case no formal enquiry was conducted and as such the impugned order cannot sustain. It has further been asserted that even under the Haryana Civil Services (Punishment & Appeal) Rules 2016 a regular enquiry is contemplated prior to imposition of a major penalty and whereas no such procedure has been followed. In a nutshell violation of the principles of natural justice has been alleged. Yet another argument raised by counsel is that apart from the B.Ed. qualification obtained from Chaudhary Charan Singh University, Meerut, the petitioner possesses another B.Ed. Degree from Jiwaji University, Gwalior and if the B.Ed. Degree from Chaudhary Charan Singh University, Meerut is to be considered as fake the second B.Ed. Degree from Jiwaji University, Gwalior can enure to the benefit of the petitioner. It is further argued that the petitioner had already put in more than 10 years of regular service and as such the extreme penalty of termination from service is harsh and the same could be substituted by imposition of a lesser penalty.

Counsel for the petitioner has been heard at length and pleadings on record have been perused.

At the very outset, it may be taken note that Mr. Jagbir Malik, learned counsel for the petitioner has very fairly conceded during the course of arguments that B.Ed. was an essential qualification as per advertisement No.2/2006 for the post of Sanskrit Teacher and for which the petitioner had applied. It has also been conceded that at the stage of applying for the post and having been selected, petitioner had gained entry in service on the post of Sanskrit Teacher on the strength of the B.Ed. Degree allegedly issued by the Chaudhary Charan Singh University, Meerut. In the present case petitioner

was issued a show cause notice by the respondent-department alleging that in a verification process the B.Ed. Degree has been found to be fake. Apart from calling for an explanation from the petitioner he was directed to produce the original B.Ed. Certificate. The reply dated 18.02.2020 furnished by the petitioner is placed on record and appended as Anenxure P-5 alongwith the writ petition. No where in the reply to the show cause notice petitioner has asserted that his B.Ed. Degree from Chaudhary Charan Singh University, Meerut is genuine. No document in support of the qualification and certificate issued by Chaudhary Charan Singh University, Meerut was appended alongwith the reply to the show cause notice and neither has any such document been placed on record alongwith the instant writ petition. Rater the emphasis of the petitioner in the reply to the show cause notice as also in the instant writ petition is on a subsequent B.Ed. qualification that is stated to have been acquired from Jiwaji University, Gwalior. Such stand is ill-founded. Petitioner had gained entry into service on the basis of the B.Ed. Degree/certificate issued by the Chaudhary Charan Singh University, Meerut. Any subsequent qualification that the petitioner may have acquired from a different University would be of no consequence.

With regard to observance of principles of natural justice are concerned, the petitioner had been duly served with the show cause notice to which he had responded. It is only after consideration of his reply that the impugned order terminating him from service has been passed. In the peculiar facts of the case where the petitioner himself is not taking a positive stand as regards genuineness of his B.Ed. Degree from the Chaudhary Charan Singh University, Meerut, would be principles of natural justice be stretched to such a limit so as to hold that a regular enquiry was necessary and imperative? The answer to such a poser has to be in the negative. In taking such view a reference may be made to the judgment of the Hon'ble Supreme Court in

Managing Director, ECIL, Hyderabad & others Vs. B.Karunakar & others 1994 (1) SCT 319.

In the impugned order the respondent authorities have rightfully referred to various judicial precedents and have taken a view that if initial entry into service is based on fake/forged certificate(s) pertaining to qualifications then such appointment would be a nullity in law. Under such circumstances, where the delinquent has no right to the post to which he has been appointed on the basis of fake/false certificates, he would not be entitled to the protection envisaged under Article 311 of the Constitution of India as also under the Punishment and Appeals Rules. This Court finds such view to be cogent and valid.

Furthermore, this Court does not find any justification to intervene even as regards quantum of punishment and to thereby substitute the order of termination from service to a lesser penalty. The petitioner had secured appointed as a Sanskrit Teacher on the basis of a fake degree. Such conduct deserves to be deprecated in the strongest terms. There would be no scope of any leniency in such matters.

For the reasons recorded above, there is no merit in the instant writ petition and the same is accordingly dismissed.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

06.03.2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No