

**C.M. NO.1606 CWP OF 2020 &
CIVIL WRIT PETITION NO.1447 OF 2015**

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

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**C.M. NO.1606 CWP OF 2020 &
CIVIL WRIT PETITION NO.1447 OF 2015
DATE OF DECISION: MARCH 04, 2020**

Gurminder Kaur

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

Mr. Vikas Mohan Gupta, Addl.Advocate General, Punjab,
for the State.

Ms. Alisha Arora, Advocate for
Ms. Soniya Sharma, Advocate,
for respondent No.5.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.1606 CWP of 2020

Prayer in this application is for disposal of the writ petition in
the light of the order dated 23.01.2020 passed by this Court in Civil Writ
Petition No.1356 of 2015 (Jaswinder Singh Vs. State of Punjab and others).

With the consent of the parties, the main writ petition, which
stands admitted, is taken on board for consideration and disposal.

The application stands disposed of.

C.W.P. No.1447 of 2015

Petitioner has approached this Court, challenging the order/report dated 18.11.2013, which has been conveyed to her vide endorsement dated 23.07.2014 (Annexure P-14), whereby the claim of the petitioner for her reinstatement in service has been declined, upholding the order of termination dated 22.10.2009 (Annexure P-4).

It is the contention of learned counsel for the petitioner that in pursuance to the directions issued by the Division Bench of this Court in L.P.A. No.239 of 2011 (State of Punjab Vs. Davinder Kaur and others), an Expert Committee was required to be constituted, on the basis of which the authenticity of the experience certificates was to be gone into and it is thereafter that a conclusion had to be drawn as per the observations of the Division Bench in Para 6 of the said judgment, which reads as under:-

“We have noticed the aforesaid arguments in order to highlight that extreme technicality should be avoided by the appellant to determine the authenticity of the experience certificate produced by the writ petitioner-respondent. A common sense view which a reasonable person would conceive should be adopted. However, it would not mean that if the certificate is not owned by the authority issuing the same then that it would qualify to be authentic. It would also not be regarded as authentic if the certificate as issued has been owned but there is no proof that the writ petitioner-respondent actually worked and required experience. In any case the procedure adopted by the appellant cannot be adversely commented upon at this stage.”

The inquiry, which was held in the case of the petitioner, is dated 16.04.2013 (Annexure P-11), wherein the Principal, Government Girls Senior Secondary School, Bagha Purana (Moga) has found the experience certificate issued to the petitioner by B.S.H.Shivalik Public School, Bathinda to be correct. As per the Division Bench judgment and directions referred to above, the Committee, on consideration of that enquiry report as also the documents, concluded in Para 4 thereof as under:-

“For perusing the representations of the candidate and record, a meeting of the Verification Committee constituted by the Government was held on 04.09.13. Concerned District Education Officer (E.E.) produced office record relating to the candidate. The record was thoroughly perused. The candidate produced for experience certificate, appointment letter, attendance register, receipt of security refund and no other document was produced which can prove his entire period of experience as genuine. As per the report of the previous committee in the attendance register produced by the candidate for the period 06.04.98 to 31.03.2001, the attendance for the period 11.06.98 to 30.09.98 is not available. Similarly, for the period 25.01.99 to 28.02.99 and from 13.06.99 to 18.07.99 the attendance is not available in the month of June to October, year has not been mentioned. In the pay distribution register for the month of July, August, September 1998, January and February 1999 the name of Gurminder Kaur with payment of Rs.1300/- has been mentioned but signature of the employee regarding receipt of

salary are not available. Apart from above the salary was being paid without any revenue stamp. Therefore, the record is doubtful. Thus, the experience certificate of the employee for the period 06.04.1998 to 31.03.2001 from B.H.S.Shivalik Public School, Paras Ram Nagar, Bathinda was declared bogus. Keeping in view the above mentioned facts and circumstances, the committee has also come to the conclusion that the certificate cannot be treated as genuine.”

On considering the conclusion, which has been drawn by the Committee, which was constituted in pursuance to the Division Bench judgment of this Court, what transpired is that the record of the School, which has been produced, has been doubted. However, it is not said that the records were bogus or forged. Keeping in view the observations of the Division Bench of this Court, the factum that the authority, which has issued the experience certificate, has owned the same, the authenticity of the certificate had to be gone into. There are documents to show that the petitioner had worked with the School, except for technical plea, which has been taken primarily with regard to there being no signature of the petitioner on some salary receipts and no revenue stamp attached thereto. There is break also indicated for the period from 11.06.1998 to 30.09.1998, 25.01.1999 to 28.02.1999 and 13.06.1999 to 18.07.1999 because of non-availability of the attendance for this period. That would not be a ground for declaring the certificate to be bogus certificate, although the conclusion has rightly been drawn that it would be doubtful. However, the Committee has finally concluded it to be a bogus certificate, which does not appear to be acceptable.

The plea, which has been taken by counsel for the State, is that once the Committee has declared a certificate to be bogus, the petitioner would not be entitled to appointment, irrespective of the fact whether she has got higher marks by excluding the marks of experience granted to her. In support of this contention, he places reliance upon the observations of the Division Bench of this Court in L.P.A. No.927 of 2010, (State of Punjab and others Vs. Parminder Kaur), decided on 11.08.2010, wherein the Division Bench has observed that in case the certificate is found to be bogus, even if a candidate has more marks by excluding the benefit of bogus certificate, the said candidate would not be entitled to appointment.

The said observations, in the present case would not be applicable. The fact that the petitioner has obtained total 68.483 marks in the merit list, out of which 3 marks have been assigned to her for experience and by excluding said 3 marks, the petitioner would secure 65.483 marks, which is much higher than the last selected general category (female) candidate, who has obtained 62.709 marks. It may be added here that the petitioner belongs to backward class (female) category and the last selected/appointed candidate in the said category has obtained 59.25 marks. If that be so, the impugned report/order dated 18.11.2013 (Annexure P-14) cannot sustain. As a consequence thereof, termination order dated 22.10.2009 (Annexure P-4) deserves to be set-aside.

In view of the above, the present writ petition is allowed. The impugned orders dated 18.11.2013/23.07.2014 (Annexure P-14) as also the termination order dated 22.10.2009 (Annexure P-4) are hereby quashed. The petitioner is ordered to be reinstated in service with all consequential benefits, except for the financial benefits, which would be restricted to 38

months from the date of passing of instant order.

March 04, 2020
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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