

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

CWP No.16643 of 2015 (O&M)

Date of Decision: 04.03.2020

Sahipal

.....Petitioner

Vs.

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Amandeep Kaur, Advocate,
for Mr. Ramesh Sharma, Advocate,
for the petitioner.

Mr. Randhir Singh, Advocate,
for respondent-State.

RITU BAHRI, J. (ORAL)

Petitioner is seeking quashing of the order dated 10.07.2015 (Annexure P-7), whereby his services have been terminated.

Petitioner has passed his matriculation examination from the Central Board of Higher Education, New Delhi. Copy of detailed marks sheet has been attached as Annexure P-2A. Thereafter, the petitioner participated in the selection process for the post of driver and was selected on the said post on contract basis keeping in view his matriculation certificates dated 05.07.2000 (Annexure P-2 and P-2A). As per joining letter (Annexure P-3), petitioner joined his duty as a Heavy Vehicle Driver on contract basis on 19.01.2014. Later on, he was issued a show cause notice dated 16.03.2015 (Annexure P-4) on the ground that his matriculation certificate is not recognized by the Haryana School Education

Board. Ultimately, vide impugned order dated 10.07.2015 (Annexure P-7), services of the petitioner has been terminated.

A perusal of order dated 10.07.2015 (Annexure P-7) shows that the petitioner had passed his matriculation examination from Central Board of Higher Education, New Delhi. Thereafter, as per letter dated 10.06.2015 sent by the Board of School Education, Haryana, it was informed that any examination held by; (i) Board of Secondary Education, Madhya Bharat, Gwalior, (ii) Board of Higher Secondary Education, Delhi and (iii) Council of Secondary Education, Mohali, is not equal to the examination held by the Board of Haryana School Education, Bhiwani. Keeping in view this letter, the show cause notice was issued to the petitioner and thereafter, his services were terminated.

Learned counsel for the petitioner has referred to the judgment passed by Division Bench of Delhi High Court in **Nek Mohammad vs. Union of India and others**, W.P. (C) No.5135 of 2003, decided on 04.06.2010 (Annexure P-9), whereby certificate issued by the Central Board of Higher Education, Delhi was considered. In para No.13 of this judgment, Union of India had admitted that the Central Board of Higher Education, New Delhi had been recognized by various State Governments and Universities. In that regard, an affidavit was filed before the Court. Keeping in view the said affidavit given by the Union of India, the certificate issued by the Central Board of Higher Education, Delhi was considered a valid certificate.

In the replication filed by petitioner, it is stated that the Board of School Education, Haryana had issued a letter dated 19.06.2015 regarding non recognition of petitioner's matriculation certificates/degree

for the purpose of higher education in Haryana. But, since the petitioner had joined on 19.01.2014, he cannot be taken to be ineligible on the ground that the certificate is not valid. Moreover, the instructions dated 19.06.2015 would be prospective in nature and cannot be applied retrospectively.

The respondents, in their written statement, have referred to the letter dated 19.06.2015 (Annexure R-3/T) written by the Assistant Director (Education) to the General Manager, Haryana Roadways, Bhiwani, whereby it has been informed that examinations conducted by the Board of Higher Secondary Education, Delhi are not recognized equivalent to the examinations conducted by the Board of School Education, Haryana.

For all intents and purposes, letter dated 19.06.2015 (Annexure R-3/T) can be made applicable for the future appointments in the Transport Department, Haryana. The petitioner, who was appointed on 19.01.2014, cannot be terminated keeping in view the instructions dated 19.06.2015 (Annexure R-3/T).

Learned counsel for the petitioner has further referred to the judgment dated 07.07.2015 passed by this Court in **Anil Kumar vs. State of Haryana and others**, CWP No.13306 of 2015 (Annexure P-10), wherein the petitioner (in that case) had been issued a show cause notice for terminating his services while working in the Transport Department on contract basis. The writ petition was disposed of with a direction to consider the case of the petitioner keeping in view the judgment passed in **Nek Mohammad's** case (supra). Learned counsel for the petitioner has further placed on record copy of order dated 03.11.2017 (Annexure P-14), whereby in compliance with the judgment dated 07.07.2015 (Annexure P-10), Anil Kumar was reinstated in service on the post of driver.

The case of present petitioner is squarely covered by the judgments passed in **Nek Mohammad** and **Anil Kumar's** cases (supra) (Annexures P-9 and P-10).

Resultantly, this petition is allowed, impugned order 10.07.2015 (Annexure P-7) is set aside and the petitioner, being a contractual employee, is ordered to be reinstated immediately, along with all consequential benefits. The consequential benefits will be granted to the petitioner within three months of the receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

04.03.2020
ajp

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No