

205

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18758-2014 (O&M)
Date of Decision: 14.02.2020

RUPINDER KAUR

...PETITIONER

VERSUS

STATE OF PUNJAB & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Alka Chatrath, Advocate
for the petitioner.

Ms. Devaki Anand Sullar, AAG, Punjab.

Mr. P.S.Guliani, Advocate
for respondent No. 4.

AUGUSTINE GEORGE MASIH, J. (Oral):

Petitioner has approached this Court praying for quashing of inquiry report (Annexure P-15) and order dated 25.01.2013 (Annexure P-16) vide which the claim of the petitioner was rejected and order dated 23.10.2009 (Annexure P-10) as passed cancelling the appointment of the petitioner as also the relieving order passed on 27.10.2009 (Annexure P-11) issued by the Centre Head Teacher Government Elementary School, Harpura in compliance to the order dated 23.10.2009 (Annexure P-10) endorsed to the Block Primary Education Officer, Qadian, Gurdaspur.

It is the contention of the learned counsel for the petitioner that the petitioner in pursuance to the advertisement dated 05.09.2007 applied for appointment to the post of Teaching Fellows, JBT/ETT Teachers. Petitioner

belongs to the Scheduled Castes (M&B) Category. In her application, petitioner had claimed that she had worked for three years as a Primary School Teacher with a Fauja Singh Mann Silver Creek School, Batala (for short 'the School'). Certificate dated 07.03.2006 which was counter signed by the Education Officer, Council for the Indian School Certificate Examination, New Delhi dated 14.03.2006 (Annexure P-4) was appended. Petitioner had secured 51.028 marks and therefore, in pursuance to the said selection and on verification of the documents petitioner was issued an appointment letter dated 30.05.2008 (Annexure P-6). Petitioner was in pursuance to the appointment letter issued the posting order dated 18.11.2008 (Annexure P-7) whereby she was assigned at Government Elementary School, Harpura Block Kadiyan District Gurdaspur. The petitioner in consonance thereto joined the said School on 19.11.2008 (Annexure P-8).

A public notice dated 07.08.2009 (Annexure P-9) was issued calling upon the selected/posted candidates for scrutiny of their certificates whose service was doubted. Petitioner found her name existing therein and therefore, in pursuance thereto approached the respondents-officials with the documents. The District Education Officer (Secondary Education), Gurdaspur returned a finding that the experience certificate, which was issued to the petitioner, dated 07.03.2006, (Annexure P-4) was a bogus certificate as the petitioner was unable to submit any proof to establish the said certificate to be genuine. The said report is dated 23.10.2009 (Annexure P-10) submitted by the District Education Officer (SE) Gurdaspur whereby her appointment letter was cancelled. Petitioner was relieved in pursuance to the said report on 27.10.2009 (Annexure P-11) by the Centre Head Teacher, Government Elementary School, Harpura.

It is the contention of the learned counsel for the petitioner that the petitioner filed **CWP No. 7706 of 2012** titled as ***Rupinder Kaur Versus State of Punjab and others*** which was disposed of by this Court vide order dated 21.11.2012 (Annexure P-14). The Court directed the respondents to consider the claim of the petitioner and take a final decision on the representation dated 22.12.2011 taking into consideration the various documents which were placed on record on which reliance was placed by the petitioner who assert that the experience certificate of the petitioner was genuine and to pass the speaking order within a period of four months from the date of receipt of the certified copy of the order. The respondents still did not proceed to grant the necessary relief to the petitioner. The petitioner again approached this Court. The fresh order which was passed on 25.01.2013, is appended as Annexure P-16 whereby the earlier termination order was upheld by the District Education Officer (Elementary Education) Gurdaspur. The petitioner has again approached this Court by way of present writ petition.

Learned counsel for the petitioner contends that even if the certificate which has been issued to the petitioner is not taken into consideration and she is not assigned any marks for the experience still she would be amongst the selected candidates as the petitioner has obtained 51.028 marks out of which 03 marks for experience, if are deducted, she would still have 48.028 marks. The last selected candidate in the category to which the petitioners' belongs i.e. SC(M&B) had got 38.780 marks. She, therefore, contends that the order which has been passed by the respondents firstly that the experience certificate is bogus is wrong as it is substantiated from the record which is available with respondent No. 4-the School. The affidavit of the Principal of the School dated 08.10.2015 supports the claim of the petitioner that the petitioner

had been working with respondent and had also admitted the certificate dated 07.03.2006 (Annexure P-4) as also the detailed certificate dated 24.09.2011 (Annexure P-12). Learned counsel on this basis asserts that the experience certificate cannot be said to be bogus. In any case, she asserts that even if the said certificate is to be ignored, the petitioner still makes the grade and therefore, the impugned orders cannot sustain.

Learned counsel for respondent No.4 supports the claim of the petitioner as regards the issuance of the experience certificate as also the period for which petitioner has been shown to have worked with the School as detailed in certificate dated 24.09.2011 (Annexure P-12). Learned counsel has also produced the original records of the School for the relevant period depicting the petitioner to have worked with the School for the said period for which the experience certificate had been issued.

Learned State counsel submits that at the time of inquiry, when the matter was taken up, in pursuance to the order passed by this Court, the person who had appeared on behalf of the School has himself accepted the factum of the certificate having not been issued by the School which obviously meant that the said certificate was bogus. She, therefore, contends that the conclusion which has been drawn by the District Education Officer cannot be said to be without any basis. Her further contention is that the petitioner had been given ample opportunities to prove the experience certificate to be genuine, where the petitioner failed and therefore, the termination order as passed by the official-respondents are fully justified. That apart, she contends that because of the certificate being bogus that in itself is a good ground for not appointing the candidate on the post of ETT/JBT teacher. However, she could not dispute the fact that in case, the experience certificate is ignored still the petitioner would

be higher in merit than the last selected candidate in the category of SC (M&B). Prayer has, thus, been made for upholding the order of cancellation of the appointment of the petitioner and dismissal of the writ petition.

On considering the submissions made by the learned counsel for the parties and with their assistance having gone through the records of the case, the dispute in the present case revolves around the experience certificate specially with regard to the genuineness or otherwise of the certificate dated 14.03.2006 (Annexure P-4) as issued by the Principal of the School.

A perusal of the said certificate would show that the certificate indicates that the petitioner had been working in this School as a Primary School Teacher since three years. The period of experience, therefore, as claimed by the petitioner as per the said certificate was three years. The detailed certificate of experience which was submitted by the petitioner at the time of inquiry is dated 24.09.2011 (Annexure P-12) which provides for the period for which the petitioner had worked with the School which reads as follows:-

- “1. 16.04.1999 to 18.03.2000,*
- 2. 16.07.2000 to 21.03.2001,*
- 3. 08.11.2004 to 15.11.2008*

The following documents in support of her experience have been handed over to Mrs. Rupinder Kaur on her request:-

- a. Photo copy of pay roll from 16.04.1999 to 18.03.2000.*
- b. Photo copy of pay roll from 16.07.2000 to 21.03.2001.*
- c. Photo copy of school attendance register from 16.04.1999 to 18.03.2000.*
- d. Photo copy of school attendance register from 16.07.2000 to 21.03.2001.”*

Perusal of the above would show that not only the period i.e. the dates were specified including the span therein for which the petitioner had

worked with the School but the proof thereof in the form of pay rolls and the School attendance register was also produced. The original record, as has been produced by the counsel for the School in Court today, also substantiate the factum that the petitioner has indeed worked with the respondent-School. In the light of the above, it cannot be said that the certificate which has been submitted by the petitioner was bogus or that she had not worked with the School for a period of three years for which the experience certificate was issued. The official- respondents can also not be held responsible for coming to the conclusion that the petitioner had not been working for the last three years from the date of issuance of the experience on 14.03.2006 as it is apparent from the experience certificate dated 24.09.2011 (Annexure P-12) that from 21.03.2001 to 08.11.2004, the petitioner had not worked with the said School and taking three years prior to 2006 would relate back to a period which would fall in the year 2003 for that period obviously petitioner was not there with the School. However, on the basis of the certificate (Annexure P-4) where no specific dates have been mentioned except for the length of the period for which the petitioner had served with the respondent-School, the said certificate cannot be said to be bogus. This takes care of the objection with regard to the petitioner being not eligible for consideration for appointment for the reasons that the experience certificate was bogus.

Even ignoring the experience certificate referred to above, the petitioner still would fall in the select list as she has now with the deduction of 3 marks from her earlier score of 51.028 marks for the experience of three years which she had claimed and obtained would now secure 48.028 marks which is much higher than the last appointed Scheduled Caste (M&B) category candidate who had secured 38.780 marks.

In view of the above, the impugned orders dated 23.10.2009 (Annexure P-10), 27.10.2009 (Annexure P-11) and 25.01.2013 (Annexure P-16) are quashed. The petitioner is directed to be reinstated in services with all consequential benefits except for actual financial benefits which is restricted to 38 months prior from today.

14th February, 2020
shabha

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether Reportable : *Yes/No*