

CWP No.25195 of 2015 & connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 21st January, 2020

CWP No.25195 of 2015

Narinder Kaur & others

...Petitioners

Versus

State of Punjab & others

...Respondents

(2)

CWP No.2249 of 2016

Manjit Kaur

...Petitioner

Versus

State of Punjab & others

...Respondents

(3)

CWP No.755 of 2016

Harkiran Prakash Kaur

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present:- Mr. Rajinder Sharma, Advocate
for the petitioner(s) (in CWP No.25195 of 2015).

Mr. Dheeraj Mahajan, Advocate
for the petitioner(s) (in CWP No.755 of 2016).

Mr. R.K. Arya, Advocate for Mr. S.S.Kainth, Advocate
for the petitioner(s) (in CWP No.2249 of 2016).

Ms. Anu Pal, DAG, Punjab
for respondent Nos.1 to 3/State.

Mr. Anil Kumar Spheia, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASI, J. (ORAL)

By this order, I propose to dispose of three writ petitions i.e. CWP No.25195 of 2015, titled as 'Narinder Kaur & others Versus State of Punjab & others', CWP No.2249 of 2016, titled as 'Manjit Kaur Versus State of Punjab & others' and CWP No.755 of 2016, titled as 'Harkiran Prakash Kaur Versus State of Punjab & others', as common questions of facts and law are involved therein. With the consent of the counsel for the parties, the facts are being taken from CWP No.25195 of 2015.

2. Petitioners have approached this Court praying for issuance of a writ in the nature of certiorari for setting aside the order dated 14.08.2013 (Annexure P-9) passed by the Director, Rural Development and Panchayat, Punjab – respondent No.3 and order dated 24.09.2015 (Annexure P-15) passed by the Director, Public Instructions (Elementary Education), Punjab, where services of the petitioners have been terminated on the ground that the diploma of 2 years, which the petitioners have obtained, was from the Gandhi Hindi Vidyapeeth, Allahabad, Uttar Pradesh (Hindi University), which is not a recognized institute.

3. Prayer of the petitioners is that although the diploma as possessed by them may not be from a recognized/approved institute by the National Council for Teacher Training but since the petitioners possessed the qualification of B.Ed. prior to applying for the post of ETT, their services could not have been terminated as it was mentioned in the advertisement issued inviting applications for appointment that in case of non-availability of ETT teachers, B.Ed. qualified persons would also be

eligible for consideration. It is asserted that they possessed the alternative qualification of B.Ed. and therefore, once the petitioners have been appointed, their services instead of being terminated, should have been retained and they should be treated in a similar manner as other candidates who had obtained B.Ed. degree prior to they having applied for the post of ETT and were taken back in service vide order dated 01.12.2011 (Annexure P-6), which has been conveyed on 08.12.2011 passed by the Director, Rural Development and Panchayat Department, Punjab. These similarly placed employees eight in numbers were also selected and appointed along with the petitioners in the selection process, which had taken place in the year 2006-07. They also had diploma of ETT and had B.Ed. qualification as well. Therefore, keeping in view the fact that they were having the qualifications of B.Ed., which was one of the qualifications laid down for consideration for appointment to the post of ETT, their orders of termination were set aside and they were taken back in service without granting them any financial benefits. Petitioners have approached this Court claiming the same benefit as was conferred upon their colleagues vide order dated 01.12.2011 (Annexure P-6), who were similarly placed as the petitioners.

4. Counsel for the State, on the other hand, asserts that the services of the petitioners have been rightly terminated as the diploma which they had possessed of ETT was from Gandhi Hindi Vidyapeeth, Allahabad, Uttar Pradesh, which is a fake university as per the list issued by the University Grants Commission. A fraud has been played upon the State, because of which their services could not have been retained as the diploma

which they have obtained is from a fake university, which has been used as a genuine one for getting appointment. However, when questioned by this Court specifically as to whether there is any dispute with regard to the fact that the petitioners possessed the B.Ed. degree from a recognized institute prior to the last date of receipt of the applications for selection, the answer to the said question is in the positive in the light of the reply which has been filed by the respondents where this fact is admitted. She, however, asserts that the termination of the services of the petitioners being based upon the fake certificates, which they had produced, the same be not set aside or interfered with. As regards the similarly placed employees, who have been granted the benefit by the Director, Rural Development and Panchayat Department, Punjab, by order dated 01.12.2011 (Annexure P-6), counsel was unable to distinguish the case of the petitioners.

5. I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case and the assertions as submitted in Court today.

6. The fact that the petitioners possessed B.Ed. qualification prior to their submission of applications, which is one of the recommended/recognized qualification for appointment to the post of ETT teachers as per the advertisement which was issued, it cannot be said that the petitioners do not possess the requisite qualification for appointment to the post of ETT especially in the light of the order dated 01.12.2011 (Annexure P-6) passed by the Director, Rural Development and Panchayat Department, Punjab, which relates to eight other similarly placed employees, who were appointed

CWP No.25195 of 2015 & connected cases

along with the petitioners as ETT teachers with the diplomas, which were found to be not recognized, but possessed the qualification of B.Ed. as the petitioners. Interference by the Director, Rural Development and Panchayat Department, Punjab, vide order dated 01.12.2011 (Annexure P-6) in accepting their claim is based upon the fact that the said teachers were possessing the qualification of B.Ed., which was taken to be a requisite qualification for consideration for appointment to the post of ETT teachers. The plea, therefore, as taken by the counsel for the State that the petitioners have played fraud upon the State, cannot be accepted.

7. In the light of the above, these writ petitions are allowed setting aside the impugned orders dated 14.08.2013 (Annexure P-9) & dated 24.09.2015 (Annexure P15) in CWP No.25195 of 2015; orders dated 14.08.2013 (Annexure P-8) & dated 24.09.2015 (Annexure P-14) in CWP No.2249 of 2016 and orders dated 14.08.2013 (Annexure P-4) & dated 20.08.2015 (Annexure P-6) in CWP No.755 of 2016. Petitioners are ordered to be reinstated in service forthwith. They shall be entitled to grant of all the consequential benefits on reinstatement notionally and arrears shall be restricted to 38 months prior to today.

(AUGUSTINE GEORGE MASIH)
JUDGE

21st January, 2020
Harish

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