

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

CWP No. 18936 of 2020

Date of Decision : 09.11.2020

JOGINDER KAUR

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

(keeping in view advance copy given)

Harsimran Singh Sethi, J. (Oral)

The present writ petition has been filed for quashing the order dated 29.03.2019 (Annexure P-17) whereby, the claim of the petitioner for reinstatement in the service has been declined.

The factual matrix needs to be noticed here.

As per the averments made in the petition, after passing the matriculate examination from the Punjab School Education Board in the year 1984, petitioner passed the higher secondary examination from the same Board in the year 1985. Thereafter, as per the petitioner, she got herself enrolled for the Bachelor of Arts Examination from Maghadh University, Bodh Gaya in the year 1988 and passed the same under Roll No.

5122 having Registration No. 69348. According to the petitioner, she further passed the Bachelor of Education Examination from the same University in the year 1994.

The State of Punjab had issued an advertisement advertising posts of JBT/ETT Teacher, in pursuance to which the petitioner applied and got selected on 21.12.2001. The petitioner was appointed on probation and during the period of probation, the services of the petitioner were terminated on the ground that the certificates of the examination, which were submitted by the petitioner to claim eligibility, were found to be fake. After issuing due show cause notice to the petitioner, the order dated 19.08.2003 (Annexure P-8) was passed terminating the services of the petitioner w.e.f. 30.08.2003 and the petitioner was consequently relieved from the service.

Not only the services of the petitioner were terminated but even the criminal proceedings were initiated against her and similarly situated persons by getting an FIR No. 437 dated 02.10.2003 registered at Police Station Division No. 5, District Ludhiana. The said criminal proceedings were decided by the Judicial Magistrate Ist Class, Ludhiana vide order dated 17.10.2013 (Annexure P-10) and petitioner was acquitted and discharged from the allegations.

On being acquitted of the allegations, the petitioner filed a writ petition being CWP No. 24661 of 2014 claiming the benefit of reinstatement in service. The said writ petition was decided on 03.12.2014 by passing following order :-

“The petitioner impugns the order of 2003 and thus this petition on the face of it is highly belated. The same merits dismissal on this score alone. However, since the petitioner has made a representation, she would be at liberty to pursue her

remedy with the respondents in this regard. It is expected that the respondents would decide her representation in the light of given facts.

Petition disposed of.”

Keeping in view the liberty, which the petitioner had taken, she approached the Education Department of the Government of Punjab with a representation and the said representation was again declined vide order dated 29.03.2019 (Annexure P-17) by stating that the degrees/diplomas on the basis of which the petitioner claimed eligibility and was appointed, were found to be fake.

The order dated 29.03.2019 (Annexure P-17) is under challenge in the present petition to claim the reinstatement in service.

I have heard learned counsel for the petitioner and have gone through the record with her able assistance.

It is not a disputed fact that the services of the petitioner were terminated by the respondents vide order dated 19.08.2003 (Annexure P-8), in pursuance to which, the petitioner was relieved on 30.08.2003 (Annexure P-9). These orders were under challenged before this Court by the petitioner in CWP No. 24661 of 2014. This Court, dismissed the petition on the ground of delay though, the liberty was given to the petitioner to pursue the remedy of representation, which the petitioner had made with the authority. Once, the claim of the petitioner qua the order of termination of services dated 19.08.2003 (Annexure P-8) has already been rejected by a Co-ordinate Bench of this Court on the ground of delay, the petitioner cannot approach this Court again for the same relief as the said action will be barred by res-judicata.

Further, vide order dated 29.03.2019 (Annexure P-17) only the

representation of the petitioner seeking reinstatement in service has been rejected by the competent authority, which is under challenge in the present petition. The order dated 19.08.2003 (Annexure P-8) terminating the services of the petitioner is not under challenge in the present petition. Once the initial order by which the services of the petitioner were terminated i.e. Annexure P-8 dated 19.08.2003 is not under challenge before this Court in the present proceedings, the petitioner cannot be permitted to challenge the rejection of representation for the reinstatement, which has been passed by the authorities vide impugned order dated 29.03.2019 (Annexure P-17).

Till the order dated 19.08.2003 (Annexure P-3) terminating the services of the petitioner remains in operation, no relief of reinstatement can be granted by this Court. Challenge to the said order dated 19.08.2003 (Annexure P-3) already stands rejected by this Court as far back as in 2014, hence, no relief can be granted to the petitioner as petitioner never appealed against the order dated 03.12.2014 passed in CWP No. 24661 of 2014.

Keeping in view the above, especially the fact that the claim of the petitioner qua the termination order dated 19.08.2003 (Annexure P-8) had already been found to be belated and rejected, the present petition is held to be non- maintainable and is accordingly dismissed.

November 09, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

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