

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

CWP-7077-2021 (O&M)

Date of decision: 25.03.2021

MANJIT KAUR

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Ms. Alka Chatrath, Sr. Advocate with
Mr. Nishant Maini, Advocate
for the petitioner.

ANIL KSHETARPAL, J.

Through this writ petition, filed under Article 226 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of certiorari to quash the order dated 17.03.2021 vide which the petitioner has been removed from service. The question which arises for consideration is 'whether the petitioner, who got employment on the post of ETT Teacher on the strength of Junior Basic Training (JBT) from Bihar Pradesh Shiksha Parishad, Shripalpur, can be permitted to continue when it is established that the institute itself does not exist?'

The petitioner on being appointed as an ETT Teacher joined on 29.12.2006. She claims that she has completed two years Diploma in Elementary Education from Bihar Pradesh Shiksha Parishad, Shripalpur,

through Oxford College, situated in Jalandhar. In 2020, the petitioner was issued a chargesheet under Rule 5 (V-IX) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, (in short 'the Rules') alleging that he does not possess the requisite qualification as the Bihar Pradesh Shiksha Parishad, Shripalpur, does not even exist. The petitioner filed a reply and thereafter, the Principal, Government Senior Secondary School, Mahilwali, was appointed as the inquiry officer, who after holding an inquiry, submitted a report against the petitioner. The petitioner was granted personal hearing on 26.02.2021. Subsequently, again various opportunities of hearing were granted to the petitioner.

After finding that the petitioner does not possess the necessary qualification for the post, her services have been terminated in the exercise of powers conferred under Rule 8 read with Rule 5 (V to VIII) of the Rules.

Learned counsel for the petitioner contends that the petitioner has a record of unblemished service of 14 years to her credit. She further contends that the petitioner had got admission in Oxford College, which claimed that it has an arrangement with the Bihar Pradesh Shiksha Parishad, Shripalpur and offered her two years Diploma in Elementary Education. The petitioner got admission bonafidely believing the same and completed her course and on the basis of the aforesaid educational qualification, the petitioner applied and was appointed on the post. She, hence, submits that it will not be appropriate for the respondents to terminate the services of the petitioner. In support thereof, she relies upon the order passed in **Pafna v.**

Home-cum-Education Secretary, Chandigarh and another, CWP-8218-CAT of 2013, decided on 18.11.2013. She further draws the attention of the Court to the subsequent order passed in the case of **Home-cum-Education Secretary, Chandigarh and another v. Pafna and another**, CWP No.2986 of 2015, decided on 28.04.2016. She also relies upon the judgment passed in **Santosh Yadav v. State of Haryana**, (1996) 9 SCC 320 and in **Omparkash and another v. State of Haryana and others**, CWP No.17441 of 2001, decided on 04.03.2008.

This Bench has heard the learned counsel for the petitioner at length and with her able assistance, perused the paper book.

It is not in dispute that the petitioner claims that she passed her two years Diploma in Elementary Education from the Bihar Pradesh Shiksha Parishad, Shripalpur. There is also no dispute that the aforesaid institute does not even exist. While deciding CWP No.16766 of 2011 (**Tejinder Singh v. State of Punjab**) on 20.01.2014, this Court on verification found that the Bihar Pradesh Shiksha Parishad, Shripalpur, itself, is not in existence. The observation made by the Court is as under:-

“On 5.11.2012, as the petitioner furnished correct address of the institute, this court directed for verification of the certificates once again. In pursuance thereof, again a team of officers headed by Vijay Sharma, Additional State Project Director (Co-ordination) went to Patna to verify the existence of the Bihar Pradesh Shiksha Parishad. Again it was found that there was no such institute in existence. It was even confirmed by the Director (Research and Evaluation), Department of Education, Bihar, Patna and also NCTE

Bhubneshar which gives recognition for running institutes for imparting ETT Education. The report submitted by the team was produced before this court as Annexure R-2. Once it was found on investigation that the institute from which the petitioner claims that he had passed his ETT Examination was not found in existence, the appointment of the petitioner was illegal from the very beginning and there is nothing wrong in terminating the services of the petitioner as he lacks the minimum basic qualification required for the post.”

Thus, the petitioner does not possess a two years Diploma in Elementary Education or in other words, does not possess the Junior Basic Training which is the requisite qualification for being appointed as an ETT Teacher.

As regards the argument of learned counsel that the petitioner is not at fault as she got the admission through Oxford College, it may be noted that the petitioner may not be in knowledge of the relevant fact, however, the question is whether the petitioner who does not possess the requisite qualification can be allowed to continue in service. Without the minimum qualification, the petitioner has no right to continue in a public employment. In such circumstances, even if the petitioner is not at fault, still the petitioner cannot be allowed to continue in a public employment.

This Bench has also carefully read the two judgments passed in the case of **Pafna (supra)**. In that case, the petitioner had claimed B.ed degree from Mathili University, Darbhanga, which was subsequently found to be not recognised. Still further, before an action could be taken, the petitioner had, in the meantime, passed B.ed from a recognised university

i.e. Jammu University. In these circumstances, in the first round, the Hon'ble Division Bench remanded the case whereas in the second round, dismissed the appeal filed by the Chandigarh Administration. Hence, the aforesaid judgment, with highest respect, is not applicable. Next, reliance is placed on the judgment passed in **Santosh Yadav (supra)**. In the aforesaid case, also the Hon'ble Supreme Court found that the Secondary Education Board, UP, Bareilly, was subsequently found to be not recognised by the State of Haryana, however, it was not a case where the institute was, itself, not in existence. In those circumstances, the Hon'ble Supreme Court directed reinstatement. Further, reliance is placed on another judgment passed in **Omparkash (supra)** where again, the dispute was whether the Hindi Sahitya Samelan, Allahabad, is recognised by the Haryana Government or not. In the facts of the aforesaid case, the Court after relying upon the judgment passed in **Ram Bhagat Sharma v. State of Haryana**, (1997) 4 RSJ 134, held that since the petitioners have already qualified the matriculation examination from the National Open School, during the pendency of the writ petition and are now qualified, therefore, the relief can be granted to them. Thus, it is obvious that in all the judgments relied upon by the learned counsel for the petitioner, the Court came to the rescue of the employees particularly because of the fact that they subsequently acquired the required qualifications. Still further, in those cases, the institution was in existence but the dispute was whether such institutions are recognised or not. However, in the present case, the educational institution which is

alleged to have issued the diploma itself does not exist. Therefore, the petitioner does not possess the requisite qualification.

In view thereof, this Court does not find it appropriate to issue the writ as prayed for. Hence, dismissed.

25.03.2021

ashok

Whether speaking/reasoned:
Whether reportable:

(ANIL KSHETARPAL)
JUDGE

Yes / No
Yes / No