

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

CWP-1353-2017

Date of decision: 21.11.2022

YOGESH

...Petitioner

VS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Arpandeeep Narula, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. R.D. Bawa, Advocate and
Mr. Samuel Gill, Advocate,
For respondents No.2 to 4.

ARUN MONGA, J (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari to quash the impugned order dated 02.08.2016 (Annexure P-15), vide which services of the petitioner on contract basis were terminated.

2. Brief facts, as pleaded in the petition. The Haryana School Shiksha Pariyojna Parishad issued an advertisement dated 23.02.2013 (Annexure P-1) for filling up 160 posts of Accountants. Pursuant thereto, petitioner was selected and engaged as Accountant-cum-Support Staff. His contract was extended from time to time. Thereafter, on a complaint made by some candidates, the documents submitted by few candidates were re-checked and their experience certificates were verified. The documents/experience certificate submitted by the petitioner were not found genuine, as he had not

submitted his appointment letter issued by Amar Flour Mill Pvt. Ltd. or any other document which could establish that he had served as an Accountant. Therefore, his case was referred to Assistant Labour Commissioner, Sirsa to verify his experience certificate. Upon verification, it was found that Mill had been lying closed. A letter dated 08.06.2016 (Annexure P-13) was though issued by Director, Amar Flour Mills Pvt. Ltd to DPC, SSA Sirsa and clarifying that Yogesh Kumar-petitioner had worked in the company as an Accountant from July-2001 to December-2005. Despite clarification, the services of the petitioner were terminated vide impugned order dated 02.08.2016 (Annexure P-15). Hence, the instant petition.

3. I have heard learned counsel for the parties and gone through the case file.

4. Short controversy herein is *qua* eligibility of the petitioner vis-a-vis his experience certificate submitted at the time of his recruitment, which in, any case, was contractual. On that short ground alone, this Court would refrain to interfere. Being a matter of contract, rights of contractual employees are confined within the four corners of the contract of employment. Remedy thus is to seek enforcement of contractual rights, by invoking the appropriate civil proceedings and not writ proceedings.

5. However, having heard the arguments on merits, I am of the view that at this stage to relegate the petitioner to seek alternative civil remedy will be a travesty, as the petition has already been pending since 2017. Therefore, merits are being dealt with.

Controversy on merits, as already noted, is *qua* the experience certificate which has been placed on record. Experience Certificate (Annexure P-7) interestingly reads as below:

“Ref. NO. 15

Dated: 31/12/05

To Whom It May Concern

This is to certify that Mr. Yogesh Kumar S/o sh. Manohar Lal, permanent residence of Kirlinagar, Sirsa was working as an Accountant, since July 2001 to December 2005 in Amar Flour Mills (Pvt.) Ltd Sirsa. He was getting fixed salary Rs. 4500/- per month.

During this period his work and conduct has been found satisfactory. He is sincere, hard working and intelligent. I wish him all success in future.

For Amar Flour Mills (Pvt.) Ltd.

Sd/-

Director”

6. Perusal of the above shows that the entire certificate is based without any supporting material either with regard to proof of payment or any TDS or any appointment letter or anything worthwhile to show the relationship of master-servant. The same seems to have been procured to make the petitioner eligible on the premise that he was working but there is no proof of salary.

7. It was in this background that verification of the said work experience certificate was sought through the office of Assistant Labour Commissioner. After obtaining the requisite information, the Assistant Labour Commissioner vide Annexure R-2 intimated that the very establishment i.e. M/s Amar Flour Mills, from whom the certificate was obtained, has been lying closed and when the owner of the Mill was asked for the records so as to verify

the service record of the petitioner, the owner simply told that

records of more than 6 years is not available with them. It is rather incomprehensible that if the records for more than 6 years is not available, then how such a certificate was obtained by the petitioner without corresponding the same with the available records of the establishment.

8. I am not in agreement with the insipidity of the argument of the learned counsel for the petitioner that merely because certain bank transactions have taken place in the account of the establishment where he claims to have worked, the same would amount to Mill not being closed.

9. No grounds are made out to interfere.

10. Dismissed.

(ARUN MONGA)
JUDGE

November 21, 2022

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No