

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

**CWP-2696-2015 (O&M)
Date of decision: 29.11.2022**

PRAMILA

...Petitioner

VS

STATE OF HARYANA AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. J.S.Rana, Advocate for
Mr. Naveen S. Bhardwaj, Advocate
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari for quashing order dated 16.10.2014 (Annexure P-9), vide which the services of the petitioner to the post of Aanganwadi Worker have been terminated.

2. Brief facts, as pleaded. Petitioner passed her Middle Class (8th) under Education Department, Rajasthan in the year 1998. Thereafter, completed her Matriculation (*Adeeb*) from Jamia Urdu, Aligarh. She applied for the post of Anganwadi Worker (General) pursuant to the advertisement issued by the respondents. The essential academic qualification for appointment to the post in question was Matriculation. Petitioner was selected and appointed as Aanganwadi Worker in Village Ahmedwas Khera. On 28.10.2011, petitioner was served with a show-cause-notice followed by another notice on the ground that she had submitted a fake disability

certificate to which the petitioner duly responded. Matter rested there. However, respondent served another notice dated 15.03.2012, Annexure P-5, to the effect that Jamia Urdu Aligarh, petitioner's *Alma Mater*, does not find mention in the list of recognized boards circulated by the Directorate, thus calling upon her to submit her reply. She submitted reply followed by personal appearance and, no action was taken. Then petitioner approached Civil Court, Loharu through Civil Suit No.126 of 2012. Suit was dismissed as being premature vide judgment and decree dated 29.09.2014 (Annexure P-8). Aggrieved, petitioner preferred an appeal. During the pendency of the appeal, services of the petitioner were terminated vide impugned order dated 16.10.2014 (Annexure P-9). Hence, the instant petition.

3. Defence taken in the return is that owing to lack of eligibility viz the petitioner not having the matriculation certificate from recognized board, which is a pre requisite for appointment on the post of Anganwadi Worker, the impugned order has been rightly passed.

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

5. Perusal of the impugned order shows that the same has indeed been passed premised on reasoning that petitioner had applied for job in question on the basis of a certificate issued by Jamia Urdu , Aligarh having completed Urdu course. Said course is known as *Adeeb* and she claims said course to be equivalent to matriculation qualification. The competent authority while rejecting

the claim of the petitioner observed that since the very certificate was issued by a fake board, therefore, the petitioner cannot be given any credence thereof.

6. Learned State counsel while relying on the findings rendered by the trial court qua the specific issue framed therein with respect to the ‘Adeeb’ certificate argues in support of the impugned order. In order to appreciate the arguments of learned State counsel, the specific issue framed by the trial Court as well as findings rendered *qua* the same are reproduced hereinbelow:

“ISSUE

2. Whether the action of the defendant no.2 for issuing show cause notice vide memo No.10019/SA/POB/12 dated 16.04.2012 and order no.110 dated 17.02.2012 issued by the defendant No.3 for terminating the services of the plaintiff on the plaintiff that the matriculation examination certificate is fake, are wrong, illegal, against rules, regulations and the same are not binding on the rights of the plaintiff, as alleged in the plaint? OPP.

XXX XXX XXX

FINDING

14. Burden of proof to prove all these issues is upon the plaintiff.

It is the case of the plaintiff that the plaintiff was appointed as Anganwari worker by the defendant no.2 vide order dated 29.3.2011. Defendant no.3 issued a notice on 28.10.2011 bearing No.936 by which the plaintiff was asked why she has submitted fake certificate. The plaintiff submitted that the certificate of Jamia Urdu, University Aligarh is recognized by the Centre Govt., as well as Haryana Govt.

15. Learned counsel for the plaintiff argued that the matriculation was done by the plaintiff from Jamia Urdu, Aligarh, which is recognized by the Centre Govt. as well as Haryana Govt. plaintiff submitted her reply but without considering the same, the defendants issued show cause notice Ex.P2 dated 16.4.2012 and 17.2.2012, which is illegal, null and void.

16. On the other hand, the stand of the defendants is that the institute from where, the plaintiff completed her matriculation is not recognized by the Haryana Govt.. In this way, the plaintiff is not fulfilling the term of condition and of her appointment. That's why, show cause notice dated 16.4.2012, was issued upon the plaintiff. Learned GP for the defendants also argued that no cause of action has been arisen to the plaintiff because after issuing the show cause notice an opportunity of hearing was given to the plaintiff and the case of the plaintiff is under consideration.

17. I found force in the arguments advanced by learned GP for the state because by way of the present suit, plaintiff seeks to inject the defendants from taking any action against her on the allegations that she furnished false matriculation of Jamia Urdu, Aligarh, which was not a recognized board, whereas the defendants had issued show cause notice to the plaintiff upon instructions from the authorities concerned for explaining her position. Admittedly, the plaintiff was still working as Anganwadi worker with the defendants department and also drawing salary. Meaning thereby, plaintiff was afforded with reasonable opportunity of being heard by the defendants in accordance with principals of natural justice and so far, no penal action had been taken by the defendants against the plaintiff. The case of plaintiff is under consideration with the defendants and all her rights and remedy are intact. As such, the present suit is pre-mature. Hence, all these issues are decided against the plaintiff.”

7. Having gone through the trial Court judgment, one finds that the same does not deal with the merits of the allegation that the petitioner's certificate is fake. No doubt, though the finding is that issue is decided against the petitioner, but merely on the ground of being pre-mature since the matter was still pending active consideration with administrative authorities and no penal action had been taken at the stage of deciding the suit. An appeal filed against the trial court judgment was withdrawn vide order dated 03.03.2015(Annexure R-1). Be that as it may, nothing much hinges

on the trial court findings.

8. Perusal of the First Appellate Court order reveals that the appeal was dismissed as withdrawn owing to the fact that the services of the petitioner were terminated during the pendency of the appeal and therefore the petitioner consequently wished to challenge the said termination order instead of pursuing the appeal.

9. In the writ proceedings before this Court, the termination order dated 16.10.2014 (Annexure P-9) is under challenge.

10. Adverting now to the claim of the petitioner that same has been wrongly passed since she possesses the matriculation qualification certificate by virtue of her having qualified *Adeeb* course in Urdu from Jamia Urdu, Aligarh. *Dehors* the said controversy, an important aspect of the matter is the Instructions dated 08.07.2009 (Annexure P-2) issued by Director Women and Child Development, Haryana which read thus:

“You are hereby informed that instructions with respect to appointment of Anganwari Workers/Mini Anganwari Workers were issued by the department vide letter No.19266-422/C.D.-3 dated 12.6.2008. As per para No.3 of the same, the qualification for the post of Anganwari Workers/Mini Anganwari Workers has been determined as 10th pass. Besides, it has further been stipulated that in case of non-availability of 10th pass candidate, then 8th pass may be offered appointment. It has also come to the notice on several occasions that munadi is being conducted for filling up posts of Anganwari Workers/Mini Anganwari Workers, however, because of non disclosure of eligibility criteria, all 10th and 8th pass candidates do apply for the same, which not only creates difficulty in scrutinizing the applications and hindrance in the selection process, rather the same also invites public wrath.

To cope up with this situation, it has been decided that for the appointment of Anganwari Workers/Mini Anganwari Workers, first of all munadi should be conducted for inviting applications from 10th pass candidates. In the eventuality of non-availability of

10th pass candidates, the applications be invited from 8th pass candidates by way of another munadi and interview be fixed forthwith.

Accordingly, these instructions may kindly be brought to the notice of all the subordinate officers/employees for strict compliance.”

12. A bare reading of the aforesaid leaves no manner of doubt that in case of non-availability of matriculate candidates, liberty was granted to all the Programme Officers/Child Development and Planning Officer in the State of Haryana in various districts that they had the discretion to offer appointment on the post of Anganwadi worker to even 8th pass candidates. *Qua* the petitioner's eligibility to be determined on the basis of 8th class, she had furnished her middle standard certificate issued by Department of Education, Government of Rajasthan contained at Annexure P-1 (colly.) and the same has been recited specifically in para 3 of the writ petition. In the corresponding response given by the official respondents in their return, the said certificate has not been denied. In the premise, safe conclusion can be drawn that her educational qualification of 8th class, being not disputed or controverted either in the pleadings or otherwise, respondents were bound to ascertain if the adequate matriculate candidates were/are available in the district, where the petitioner had applied. She ought to have been given the benefit of her having passed 8th class, in case of adequate number of matric pass candidates not being there.

13. Writ petition is, accordingly, disposed of with an expectation from the respondents that in case the vacancy is available as on today and the adequate number of matriculate candidates are

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not available, petitioner should be given the benefit of the Instructions dated 08.07.2009 (Annexure P-2) *ibid* and necessary administrative orders shall be passed provided, of course, she is otherwise found fit and meritorious *qua* the post in question.

14. Necessary exercise be carried out within a period of two months from today.

15. *Qua* the claim of the petitioner to treat her *Adeeb* course at par with matriculation, this court in the absence of sufficient supporting material is unable to give its opinion. It is left open to the competent authority to carry out the necessary exercise by constituting an expert committee, if it so desires, and/or by taking up the matter with Ministry of Home Affairs, Department of Personnel and Administrative Reforms, New Delhi and confirm the credentials of the institute as well as the *Adeeb* course imparted by it.

15. Disposed of accordingly.

(ARUN MONGA)
JUDGE

November 29, 2022

vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No