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

COCP No.594 of 2019 (O&M)

Reserved on: 08.05.2023

Date of decision: 10.05.2023

Rekha Dhariwal

....Petitioner

Versus

Dheera Khandelwal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. P.K. Longia, DAG, Haryana.

ARVIND SINGH SANGWAN J.

The petitioner alleges non-compliance of the order dated 08.05.2017 passed by the Writ Court in CWP No.66 of 2014, which reads as under:-

“By this petition the petitioner has challenged the show cause notice dated 17.09.2013 as well as order dated 24.12.2013 whereby her services were terminated.

Brief facts of the case are that in the year 1995 respondents advertised 38 posts of Principals in Government Senior Secondary Schools in Hayana Education Services (HES) Class-II and the petitioner applied for the same. The petitioner was selected as Principal by respondent No.4 in the year 1995 and was issued a letter of appointment on 17.03.1999. The petitioner joined as Principal on 19.3.1999.

After 14 years of service, by show cause notice Annexure P-7 she was informed that a preliminary enquiry had revealed that the experience certificates of Dr. Radhakrishan International School, New Delhi which she had submitted was signed by one Mr. S.P. Gupta whereas at that time Mr. M.P. Bhatnagar was the Principal of the school; consequently it had been determined that she had

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committed a fraud, and she was asked to show cause why her services not be terminated. She was granted time till 31.10.2013. By letter Annexure P-8 she requested the respondents to give her a copy of the preliminary report and the other material on the basis of which preliminary report was submitted. Nothing was done. On 10.12.2013 she moved an application seeking leave from 16.12.2013 to 24.12.2013 on account of the marriage of her daughter. That leave was admittedly sanctioned and granted. However two days later i.e. on 12.12.2013 she was directed to appear in the office personally on 13.12.2013 or on 16.12.2013 for giving reply to the show cause notice after inspection of record. She again informed the respondents that she had already been sanctioned leave from 16.12.2013 to 24.12.2013 on account of the marriage of her daughter and it would not be possible for her to attend the office at such short notice. She also mentioned that on 28.10.2013 she had requested to supply her documents and a period of 15 days thereafter to submit the reply because the allegations pertained to a period 3 decades prior, but instead of that she was given 2 days time to file the reply. Notwithstanding this prayer, and after holding that regular enquiry would not be practicable, the impugned order was passed terminating her services on the ground that the petitioner was not fulfilling the requisite qualification of 8 years teaching experience after B.ED and just to make herself eligible for the post in question the petitioner intentionally annexed bogus experience certificates with the application form and that is why the present petition has been filed.

The argument of learned counsel for the petitioner as regards Dr. Radhakrishnan International School, New Delhi is that in view of the fact that enquiry officer gave his finding only by default and had unequivocally stated that no record had been presented before her to substantiate the allegation, it was all the more incumbent upon the respondents to have given the petitioner a reasonable opportunity to substantiate her claim, and as regards the allegation about Vivekanand International School, his argument is that this was never part of the show cause notice and consequently the petitioner had no chance to explain it. He further states that petitioner has no objection in facing an enquiry even now.

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These two aspects have neither explained in the written statement nor the learned Assistant Advocate General had been able to show me how the action can be justified. In the circumstances, I have no option but to set aside the impugned order of the termination of the services. However that would not result in automatic release of consequential benefits to the petitioner. It is directed that the respondents would issue her regular chargesheet within 1 month from the date of the receipt of a certified copy of this order. The petitioner would be granted a period of 30 days to file reply. Thereafter the respondents would have 3 effective dates spread over a period of 2 months to lead their evidence and similarly the petitioner would get 3 opportunities spread over 2 months to lead her evidence. The disciplinary proceedings must be completed on or before 31.12.2017 and any consequential relief to the petitioner would be dependent on the order to be passed in the disciplinary proceedings. In case the disciplinary proceedings are not completed on or before 31.12.2017 (subject to the petitioner not obstructing the same) she would be entitled to all consequential benefits of this order setting aside her termination and would be entitled to all retiral benefits also.

The instant petition stands disposed of in the above terms.

A copy of this order be handed over the learned Assistant Advocate General as well as learned counsel for the petitioner under the signature of the Bench Secretary so that time limits can be adhered to.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.”

Counsel for the petitioner has argued that the petitioner after inspection of record has submitted reply to the charges and later, the petitioner submitted a representation for releasing the pension, however, she was afforded opportunity of personal hearing by the Director Secondary Education. Thereafter, the petitioner sought certain documents under the RTI Act. It is stated that the charge-sheet was sent

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on 06.10.2017 and despite giving personal hearings, no date is given for completion of the enquiry.

As per the reply filed by the Director, Secondary Education, Panchkula, it is stated that the petitioner was served with a charge-sheet under Rule 7 on 06.10.2017 with the allegation that she had obtained appointment on 19.03.1999 as Principal on the basis of forged and fake teaching experience certificate issued by Vivekanand International School, Faridabad as well as the certificate issued by Dr. Radha Krishan International Senior Secondary School, New Delhi.

The petitioner sent a reply and an enquiry office was appointed, however, due to his transfer, the same could not be conducted. Thereafter, the enquiry office was appointed on 19.04.2019, however, despite notice, the petitioner did not appear and has rather filed the present contempt petition. It was also alleged that she was out of country for some period.

It is also stated that a civil miscellaneous application i.e. CM No.677-CII of 2020 in CWP No.66 of 2014 has been filed by the department, for extension of time on the ground that it is the petitioner, who is lingering on the enquiry, on one pretext or the other.

Fresh status report is filed by the Director Secondary Education, Haryana, in which again it is stated that it is the petitioner, who is not allowing the enquiry proceedings to continue, however, the enquiry officer proceeded ex parte against the petitioner and has submitted the enquiry report dated 27.10.2022, which has been sent to the petitioner.

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Counsel for the State has placed on record the order dated 15.11.2022 passed in CWP No.25926 of 2022, filed by the petitioner to submit that the petitioner has challenged the ex parte enquiry report and while issuing notice of motion, it is directed that no final order on the disciplinary proceedings be passed till the next date of hearing.

In view of the above, no willful disobedience on the part of the respondents is made out.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

10.05.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No