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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-31039-2018
Date of decision: 25.01.2023

THE JIND CENTRAL COOPERATIVE BANK LTD., JIND

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. Narinder Singh Behgal, AAG, Haryana.

Ms. Bhupinder Kaur, Advocate
for respondent No.3.

Ms. Kavita Arora, Advocate
for respondent No.4.

JAISHREE THAKUR, J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari for quashing order dated 07.09.2018 (Annexure P-3) passed by respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana.

The petitioner-Bank is aggrieved against order dated 07.09.2018 passed by respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana, whereby directions have been issued to the petitioner-Bank to appoint respondent No.3-Reena in the Bank on

any post as per her qualifications.

In brief, the facts as culled out are that respondent No.3-Reena filed a complaint before respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana, alleging that she is physically handicapped with 70% disability and had worked as Assistant Clerk with the petitioner-Bank at Naguran from 05.05.2015 to 19.01.2018 when her services were dispensed with. She averred that she had been paid Rs.50,000/- for the said whole period, whereas she had been promised to pay Rs.12,000/- per month. By way of the said complaint, respondent No.3-Reena claimed reinstatement in service with arrears of salary. Respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana, allowed the said complaint despite the fact that the petitioner-Bank in its written statement had categorically taken a stand that respondent No.3 had never been appointed in the petitioner-Bank on the post of Assistant Clerk and that the experience certificate as relied upon was a bogus certificate. A Branch Manager in his affidavit had mentioned that no such person with the said name of Reena wife of Gulab Singh, village Chuaharpur, Teshil Alewa, District Jind had ever worked with the Bank either on temporary or regular basis nor any experience certificate had been issued to her by the Bank. She was known to a Clerk namely Rajbir Singh in the Bank but no experience certificate was ever issued to respondent No.3 by the Bank Manager. The plea was taken that all appointments in the Bank are made under outsourcing policy through a hired company and, therefore, the question of any experience certificate being issued would not arise. Despite the pleas taken, respondent No.2-Commissioner, Persons with Disabilities, Social Justice &

Empowerment Department, Haryana took into account the experience certificate submitted by respondent No.3-Reena and came to hold that the Branch Manager had admitted his signatures on the experience certificate to hold that respondent No.3-Reena had worked in the petitioner-Bank and on that basis, directed appointment to be issued to her.

Learned counsel for the petitioner-Bank would contend that the impugned order ought to be set aside as respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana has wrongly come to the conclusion that respondent No.3 had been an employee of the petitioner-Bank. It is argued that there is no appointment letter available on the record. The experience certificate as claimed by respondent No.3 to have been issued by the Branch Manager is a bogus document and that there is an affidavit issued by the Bank Manager itself in this regard. It is further submitted that an explanation had been sought from the Bank Manager regarding the experience certificate issued and he had replied by stating that no such experience certificate had been issued by him and his signatures might have been misused. It is further contended that the petitioner-Bank was appointing persons through an outsourcing policy and the question of any appointment having been offered to respondent No.3 is patently false.

Per contra, learned counsel for respondent No.3 would urge that respondent No.3 is 70% disabled person and that she had been removed from the service of the petitioner-Bank and left with no source of livelihood. It is on this basis that appointment had been offered to her. It is further submitted that the experience certificate had been issued, which would establish that she was working as Assistant Clerk and that there is no infirmity with the order so

passed by respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana.

I have heard learned counsel for the parties and have also perused the pleadings of the case and find that there is merit in the instant writ petition and the same deserved to be allowed.

Respondent No.3-Reena is claiming to be an employee of the petitioner-Bank by relying upon so called experience certificate signed by the Branch Manager, The Jind Central Cooperative Bank Ltd., Jind. On the asking of the Court, learned counsel for respondent No.3 has not been able to produce any appointment letter nor had been able to produce on record any document to show that there was salary paid to respondent No.3 as claimed. In the written statement filed before respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana, the petitioner-Bank had taken a specific stand that respondent No.3 was a regular student in HARTRON, Diploma in Computer Software from 21.07.2014 to 20.07.2015 and had passed her final examination on 23.09.2016 and, therefore, the claim that she was working as Assistant Clerk since 05.05.2015 was false. Even this argument has not been taken note of nor was it controverted by respondent No.3 before respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana.

Without taking into account all pleas as raised in the written statement that respondent No.3-Reena was never appointed nor there was any appointment letter on the record and she was a student of HARTRON, Diploma in Computer Software and had approached the petitioner-Bank as an intern to gain experience, respondent No.2-Commissioner, Persons with Disabilities,

Social Justice & Empowerment Department, Haryana has directed to issue appointment to respondent No.3-Reena, which is not sustainable.

Consequently, the instant writ petition is allowed. The impugned dated 07.09.2018 (Annexure P-3) passed by respondent No.2-Commissioner, Persons with Disabilities, Social Justice & Empowerment Department, Haryana, directing the appointment to be offered to respondent No.3-Reena, is hereby set aside.

25.01.2023
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No