



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

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CWP-19263-2016 (O&M)
Date of decision: 16.01.2025

Ravinder

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Alka Chatrath and Mr. Nishant Maini, Advocates
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for quashing of order dated 22.08.2016, Annexure P-20, whereby the services of the petitioner were terminated.

2. The petitioner, possessing requisite qualifications of BA and B.Ed in Hindi, along with additional qualifications of M.Phil Education and M.A. Education, was selected under BC category pursuant to the advertisement dated 07.05.201 and appointed as Hindi Master on contractual basis on 31.12.2012 with a consolidated salary of Rs.14,430/-, with provision for regularization after three years in the pay scale of 10300-34800+3600 Grade Pay.

3. It merits consideration that despite he being simultaneously selected as ETT Teacher in Sarva Shiksha Abhiyan Authority with a higher salary of Rs.15,500/-, chose to join as Hindi Master on 14.02.2013, evidencing his *bona fide* intention, however, a show cause notice issued after two years on 06.05.2015, Annexure P-16, predicated upon the factum of decision by the Chairman Selection Committee dated 08.04.2015 to withdraw the additional marks granted to him for M.A. Education, to which



though the petitioner submitted a detailed reply clarifying his entitlement stemmed from the marks for possessing M.Phil qualification but without advertizing to the same the services were terminated vide the impugned order.

4. Pertinently, the Secretary, Government of Punjab Education Department had explicitly recognized M.A. (Education) from Punjabi University, Patiala as equivalent to M.Ed. degree for recruitment purposes (Annexure P-3). This position stands fortified by Punjabi University's own certification of equivalence between M.Ed. and M.A. (Education) degrees (Annexure P-10). In **Anand Yadav & Ors. v. State of Uttar Pradesh & Ors.**¹ Hon'ble the Supreme Court decisively affirmed that the M.Ed. degree as a legitimate postgraduate qualification in Education, endorsing the authority of UGC and NCTE in matters of academic equivalence. It emphasized judicial restraint in specialized fields, upholding an expert committee's conclusion that M.Ed. and M.A. (Education) are equivalent for Assistant Professor (Education) posts reinforcing the employer's discretion in assessing qualifications. Ultimately, it sanctioned the recruitment process, directed swift declaration of results, and ensured that deserving candidates rightfully secure their academic positions.

5. Further, in **Rajesh Kumar & Ors. vs. State of Bihar & Ors**², wherein it was held that the candidates who were initially appointed based on even an erroneous evaluation of answer sheets and subsequently served the State for a significant duration, yet failed to secure a place in the revised merit list post re-evaluation, should nonetheless be allowed to continue in service. In light of maxim *fraus et jus nunquam cohabitant* (fraud and justice

¹ 2023(1)SCC(L&S)333

² (2013) 4 SCC 690



never dwell together), the Court underscored that this principle remains deeply embedded in the essence of service jurisprudence. No vested rights accrue to an individual who secures employment through fraud, deceit, misrepresentation, or malice, nor can such a person be permitted to derive benefits from an unlawful appointment. Nevertheless, in instances where appointments were made without any fault on the part of the candidates, the judiciary has consistently exercised a compassionate and equitable approach.

6. In **Dr. M.S. Mudhol v. S.D. Halegkar**,³ Principal of a privately aided school, who had been appointed in 1981 due to the default of the Selection Committee, despite lacking the requisite qualifications, however, there being no evidence to suggest that he had misrepresented or exaggerated his credentials, the Court held that it would be unjust to penalize him for an error not of his own making. Since the illegality stemmed from the misconduct of the Selection Committee and the Director of Education, who had unlawfully sanctioned the appointment, the burden of their lapse should not be shifted onto the appointee. Given that he had transparently disclosed his qualifications and was still deemed suitable by the Selection Committee, it would be inequitable to displace him. The true culpability lay with the authorities responsible for the flawed selection process, and thus, they alone should bear the consequences of their misjudgment.

7. In **Vikas Pratap Singh and others vs. State of Chattisgarh**⁴ the Court observed that appointees having been wrongly selected due to an evaluation error, neither been found to have committed any fraud or misrepresentation should not be unfairly terminated. However, their

³ 1993(4) S.C.T. 226

⁴ (2013) 14 SCC 494.



continuation must not grant them undue advantage over candidates from the revised merit list.

8. In **Rukhsana and others vs. State of Punjab and others**, CWP-10879-2023, decided on 16.02.2024, reasons for which were accorded in **Neetu Sharma vs State of Punjab and others**, CWP No.- 5854- 2014 decided on 16.02.2024, wherein also the services of teachers were terminated on the ground that they were wrongly appointed, the Court held that the termination of teachers, duly appointed based on certified documents and having served for nearly a decade, was unjustified, allowing them to continue while maintaining seniority in favor of a higher-merit candidate.

9. It is not the case of the respondents that the petitioner did not possess the requisite qualification, the issue revolves only around the deduction of additional marks already granted, decision to withdraw the same as unilaterally taken vitiating her appointment in the year of 2016, which has though continued ever since *albeit* in wake of the interim order passed.

10. On a conspectus evaluation of the facts and circumstances, keeping in mind the enunciation of law, the present petition is hereby allowed and impugned order dated 22.08.2016 set aside.

16.01.2025

Hemant

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No