

2025:PHHC:074054-DB



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

LPA-3279-2024 (O&M)

Reserved on: 20.05.2025

Pronounced on: 28.05.2025

DILBAG SINGH

.....Appellant

Versus

STATE OF PUNJAB & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE ALOK JAIN**

Present:- Mr. Vikas Chatrath, Advocate with
Mr. Preet Aroa, Advocate and
Mr. Sachit Katoch, Advocate for the appellant.

Mr. Kuljit Singh, Additional A.G., Punjab.

Mr. Anupam Singla, Advocate for respondents No.2 & 3.

SUDHIR SINGH, J.

Challenge in the instant intra Court appeal is to the order dated 04.10.2024 passed by the learned Single Judge, whereby the writ petition filed by the appellant was dismissed. Before the learned Single Judge, the appellant had sought quashing of the order dated 20.03.2013 (Annexure P13), vide which his services were terminated.

2. Vide order dated 26.03.2013 passed by the learned Single Judge in the writ petition, while issuing notice of motion for 03.05.2013, operation of the impugned order dated 20.03.2013 (Annexure P-13 with the writ petition) was stayed.

3. The facts of the case are that Sarv Sikhiya Abhiyan Authority Punjab, Chandigarh had issued an advertisement in 2008, inviting applications for recruitment of J.B.T/E.T.T. teachers and the qualification therefor was 10+2 and a certificate of passing the Elementary Teacher Training (ETT) course recognized by the Punjab Government. The appellant applied for the said post and she was invited for interview by the Selection Committee constituted by respondent No.2 i.e., Sarv Sikhya Abhiyan Authority, Punjab in the month of October, 2008. He was selected and was issued an appointment letter on contract basis on 15.12.2008. He joined the Government Elementary School, Ghandian Colony, Gurdaspur on 19.12.2008 and was also awarded a certificate for the brilliant performance in teaching the students continuously since 2009. It was further the case of the appellant that he was issued a show cause notice dated 05.03.2013 to the effect that the Bharti Shiksha Parishad from which the BTC Course certificate had been obtained by him was not recognized by the University Grants Commission (for short 'the UGC'), and her reply was sought within 10 days from the receipt of the notice. However, respondent No.2, without awaiting for the reply to the said show cause notice and before expiry of 10 days from the receipt of the notice by the appellant, passed the termination order on 20.03.2013. It was submitted by the appellant that he was undergoing eye treatment in the hospital and came to know about the termination order from one of her colleagues on 23.03.2013. The said order was challenged being in violation of the principles of natural justice.

4. In the reply filed on behalf of respondent No.1, while pointing out the factum of the order dated 03.03.2020 passed by the learned Single Judge, it was asserted that the appellant had secured contractual appointment to the Post of ETT/JBT, under respondent No.2 on the basis of Basic Teacher's Certificate (BTC) issued by the Bhartiya Shiksha Parishad, Uttar Pradesh. It was further pointed out that the appellant had acquired the said qualification from unrecognized institution/University and the U.G.C. vide its letter No. F.2-2/91(MPC)PL.1 issued in March 2012, had declared the Bhartiya Shiksha Parishad, Uttar Pradesh as a fake University and the same was not recognized by the U.G.C., neither it was established under any Central Act or State Act. The U.G.C. further informed the Bar Council of India that Bhartiya Shiksha Parishad was not empowered to confer any degree and the degree awarded by the Bhartiya Shiksha Parishad was not recognized. It was, thus, asserted that the appellant was issued a show cause notice dated 05.03.2013 and since no reply was received from him, vide order dated 20.03.2013, the service contract of the appellant was terminated. It was further pointed out that U.G.C., can recognize awarding of degrees of Post Graduation Level but since BTC, course was a technical training course, therefore, the same was required to be approved by the National Council of Teacher Education. Still further, it was averred that respondent No.2 again verified the validity of the certificate of the appellant from the State Council of Educational Research & Training, U.P., Lucknow and the said Authority vide its letter dated 20.03.2014 informed respondent No.2 that prior to 2010, no private institution

was approved by the State Government to run the BTC Course. It was also informed by the State Council of Educational Research and Training, U.P., Lucknow that from 2010, the session for BTC Training of Private Institutions had started and after completion of 2 years' training, the certificate was being issued by the office of the Secretary, Examination Regulatory Authority, Uttar Pradesh, Allahabad. Again vide letter dated 10.04.2014, the State council of Educational Research & Training, U.P., Lucknow informed respondent No.2 that Bhartiya Shiksha Parishad was a private institution and it was not given any approval for BTC/NTT training course by the NCTE.

5. The learned Single Judge has dismissed the writ petition after noticing that the appellant was not having requisite qualification for being appointed as ETT and even he was not entitled to be retained in service on the strength of the B.Ed. degree obtained by him for the reason that the last selected candidate in the B.Ed. had obtained 141.93 marks, whereas the aggregate score of the appellant was 110 (113 according to the appellant).

6. Learned counsel appearing on behalf of the appellant has vehemently argued that while deciding the writ petition, learned Single Judge did not decide the issue as regards the validity of the termination order dated 20.03.2013. It is further argued that the appellant did his BTC course from Bhartiya Shiksha Parishad, Lucknow, Uttar Pradesh in 2006, which was recognized by the Government of Punjab, and that before joining the BTC Training Course, the appellant had enquired from the University Grants

Commission (UGC) regarding the status of Bhartiya Shiksha Parishad institution and the appellant was informed that the said Parishad had been deleted from the list of fake Universities on the UGC website. It is further argued that similarly situated persons, who had done their BTC course from the aforesaid Parishad, are still working under the Government of Punjab and the appellant has been discriminated, while dispensing with his services. Still further, it is argued that pursuant to an order dated 10.02.2010 passed by the learned Single Judge of this Court in CWP-13897-2008, a Committee was constituted by the respondent-Authorities and the services of the similarly situated employees were made subject to the outcome of the pending litigation, and that the said employees are still working with the Government of Punjab holding the same post as that of the appellant. It is also argued that in terms of the judgment of the Hon'ble Supreme Court in SLP-4854-2009 titled as **State of UP v/s Bhupinder Nath Tripathi**, decided on 29.10.2010, the degrees awarded during the time when the application for recognition was pending for consideration before the competent authority under Section 14(2) of the NCTE Act are valid and *ipso facto* recognized and need no recognition as they are protected by the NCTE Act itself. It is also argued that the appellant before having been thrown out of the job, had already served the respondent-department for 16 long years, and therefore, the dismissal order is harsh and liable to be set aside.

7. On the other hand, the learned counsel for respondent No.2, argues that since the appellant had served on contractual basis

that too on the strength of interim order passed by this Court coupled with the fact that he was not holding valid degree, his services have rightly been terminated by the respondent-Authorities. It is further argued that so far as the BTC qualification is concerned, the same was not recognized by the Punjab Government and even if the case of the appellant is considered under the B.Ed qualification head, then also, the appellant did not fall in the zone of consideration.

8. We have heard learned counsel for the parties and have also gone through the record of the case including the impugned order. The question that arises for consideration in the present appeal is whether the impugned order passed by the learned Single Judge, suffers from any illegality.

9. It may be noticed that vide order dated 26.03.2013 passed in CWP-6658-2013, while issuing notice of motion, the operation of the impugned order dated 20.03.2013 (Annexure P-13 with the writ petition) was stayed till the next date of hearing. Thereafter, the appellant was taken back in service by the respondent-Authorities by withdrawing the order of termination. In the order dated 03.03.2020 passed in CWP-6658-2013, it was noticed by the learned Single judge that during pendency of the writ petition, the Sarva Shiksha Abhiyan Society, Punjab had been merged with Rashtriya Madhyamik Shiksha Abhiyan Authority resulting in constitution of new Society i.e., Samagra Shiksha Abhiyan Authority, and in the said Society, the services of the employees, who were earlier working under the Sarva Shiksha Abhiyan Scheme as well as Rashtriya Madhyamik Shiksha Abhiyan were taken over by the Education Department. The said

order reads as under:-

“ Learned counsel for the parties are ad idem that during the pendency of the writ petition the Sarva Shiksha Abhiyan Society, Punjab has been merged with Rashtriya Madhyamik Shiksha Abhiyan Authority resulting in constitution of new society i.e Samagra Shiksha Abhiyan Authority. Under this Society, the services of the employees, who were earlier working under the Sarva Shiksha Abhiyan Scheme as well as Rashtriya Madhyamik Shiksha Abhiyan stands taken over by the Education Department, in which the petitioners have, with the creation of the additional posts for their absorption, which exercise has been carried out and wherein options were invited by the Government of Punjab and those teachers who have opted for their services to be taken over by the Punjab Government under the Education Department have been so absorbed in the Education Department.

It has been pointed out by the counsel for the petitioner that the petitioners have given their consent/option and their services have been regularised w.e.f. 01.04.2018. Let, the State of Punjab file response to the averments as recorded above by the counsel for the petitioner.

List on 23.04.2020.

A photocopy of this order be placed on the files of the connected cases.”

10. Vide the impugned order, the learned Single Judge has noticed that the stand of the appellant that even if it was assumed that the appellant was not having the requisite qualification for appointment to the post of ETT, then also under the category of B.Ed.

qualified candidates, his aggregate score came to be 110 (113 as claimed by the appellant). It was thus, noticed by the learned Single Judge to the following effect:-

“6. It may be noticed that the petitioner is claiming eligibility as of now on the basis of B.Ed. qualification, which the petitioner had obtained in the Session 2005-2006. It is a conceded position that the respondents had taken a stand that after exhausting all the eligible candidates who fulfill the qualification prescribed for the said post under the rules, in case the advertised posts remained vacant the candidates having B.Ed. qualification were considered on the basis of the merit, which merit list has been separately prepared.

7. Learned counsel for the petitioner has conceded before this Court that after adjusting all the eligible candidates, who fulfill the qualification required for the post of ETT Teachers as envisaged under the Rules governing the service, the last candidate who was considered on the basis of the qualification of B.Ed., has secured 141.93 marks.

8. That being so, the petitioner even if is considered on the basis of the B.Ed. qualification, he has only secured 113 marks. That being the factual position, the petitioner has not secured

enough marks become eligible for selection even on the basis of B.Ed. qualification keeping in view the number of posts, which remained vacant after adjusting all the eligible candidates having qualification commensurate to the one prescribed in the Rules governing the service to be filled from the candidates having B.Ed. qualification.

9. Keeping in view the said fact, no ground is made out to treat the petitioner eligible or to be within the merit so as to claim appointment against one of the advertised post as being claimed in the present petition.”

11. The sole argument of the learned counsel for the appellant is to the effect that while deciding the writ petition, the learned Single Judge did not decide upon the validity of the termination order dated 20.03.2013. It may be noticed that after passing of the interim order by the writ Court on 26.03.2013, the appellant was taken back in service. During the pendency of the writ petition, the factum of merging of Sarva Shiksha Abhiyan Society, Punjab with Rashtriya Madhyamik Shiksha Abhiyan Authority, came into being and the services of the employees of the said Society were taken over by the State Government. While passing the impugned order, the learned Single Judge has taken into consideration the factum that the appellant was not having the requisite qualification for the post of ETT teacher at the time of his appointment and it was for

this reason that his services were terminated on 20.03.2013, but as noticed above, he continued serving due to the interim order passed by this Court. A perusal of the impugned order passed by the learned Single Judge further shows that it was also taken into consideration whether the appellant was eligible to be retained in service being B.Ed. qualified, but it was found that even in the B.Ed. category, the score of the appellant was very low i.e., 110 (113 claimed by the appellant) as against the last selected candidate i.e., 141.93. Thus, even the second ground i.e., B.Ed. qualification did not come to the rescue of the appellant and accordingly, the writ petition has been dismissed.

12. Once the learned Single Judge has taken into consideration the alternative plea of the appellant i.e., B.Ed. degree course, we find no reason to accept the argument of the learned counsel for the appellant that the learned Single Judge did not adjudicate upon the validity of the termination order dated 20.03.2013, whereby the services of the appellant were dispensed with. Still further, reliance of learned counsel for the appellant on the judgment of the Hon'ble Supreme Court (Constitution Bench) in the case of **Sivanandan C.T. and others** versus **High Court of Kerala and others**, reported as 2023 (3) SCC 799, is of no help to the appellant as in the said case, the Hon'ble Supreme Court has found that after a lapse of six years, it might be difficult to direct either the unseating of the candidates, who had performed their duties and further found that unseating them at that stage would be contrary to the public interest since they had gained experience as Judicial

Officers in the service of the State of Kerala. It was held as under:-

“53. The question which now arises before the Court is in regard to the relief which can be granted to the petitioners. The final list of successful candidates was issued on 6 March 2017. The candidates who have been selected have been working as District and Sessions Judges for about six years. In the meantime, all the petitioners who are before the Court have not functioned in judicial office. At this lapse of time, it may be difficult to direct either the unseating of the candidates who have performed their duties. Unseating them at this stage would be contrary to public interest since they have gained experience as judicial officers in the service of the State of Kerala. While the grievance of the petitioners is that if the aggregate of marks in the written examination and viva-voce were taken into account, they would rank higher than three candidates who are respondents to these proceedings, equally, we cannot lose sight of the fact that all the selected candidates are otherwise qualified for judicial office and have been working over a length of time. Unseating them would, besides being harsh, result in a situation where the higher judiciary would lose the services of duly qualified candidates who have gained experience

over the last six years in the post of District Judge.”

13. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.
14. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[ALOK JAIN]
JUDGE

28.05.2025
himanshu

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