
(2012) 08 P&H CK 0202
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15909 of 2012 (O and M)

Jatinder Pal Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 226, 227

Citation : (2012) 08 P&H CK 0202

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : J.S. Gill, for the Appellant;

Final Decision : Dismissed

Judgement

Tejinder Singh Dhindsa, J.—The present writ petition has been filed under Articles 226 and 227 of the Constitution of India praying for the issuance of a writ in the nature of Mandamus for directing the respondent-authorities to issue appointment letters to the petitioners for the post of E.T.T Teachers. While raising such a plea the petitioners are claiming parity with certain identically situated candidates whose services had also been terminated along with the petitioners and who have since been reinstated/allowed to continue. The facts in brief would require notice. The petitioners had initially applied for the post of E.T.T Teacher in pursuance to an advertisement dated 4.3.2006. In terms of the Punjab Panchayati Raj Primary Teachers (Recruitment & Condition of Service) Rules, 2006 qualification for the post of E.T.T Teacher had been prescribed. The petitioners stated to have passed the Elementary Teachers Training Course from an institute located at Lucknow (Uttar Pradesh) purported to be recognized by Central Govt. as well as by the Govt. of Uttar Pradesh. Relying upon the Diploma Certificate issued to the petitioners by such institute the petitioners had been granted appointment as E.T.T Teachers on provisional basis in the year 2007. Apparently, upon verification the institute from where the petitioners had claimed to have passed their Elementary Teachers Training Course was found to be non-

existent. Accordingly, in terms of issuance of orders dated 30.7.2008 the services of the petitioners were proposed to be terminated. Such action came to be impugned by the petitioners as also certain other similarly situated in terms of filing a number of writ petitions including CWP No. 13897 of 2008 titled as Didar Singh and others Vs. State of Punjab & others. The aforementioned writ petition came to be disposed of vide order dated 10.2.2010, whereby it had been directed that a Committee to be headed by the Chief Executive Officer was to be constituted which in turn was to hold a detailed fact finding inquiry regarding the genuineness of the Elementary Teachers Training Course undertaken by the petitioners (including the present petitioners). It is not a matter of dispute that the Committee so constituted in reference to the orders passed by this Court submitted a report (Annexure P-14), wherein the Institute of Elementary Teachers Training, Alambaag, Lucknow i.e the institute from where the present petitioners had acquired the Diploma was found to be an institute not included in the list of recognized institutes for elementary education in the State of Uttar Pradesh by the N.C.T.E. It would be apposite to notice that along with the institute from where the petitioners had acquired the Diploma four other institutes were also found to be issuing Diploma Certificates which were not duly recognized.

2. Consequently in pursuance to the findings returned by the Committee duly constituted in pursuance to the orders passed by this Court the services of the petitioners were dispensed with vide order dated 13.7.2010. The findings of the Committee as also the consequent orders dispensing with the services of the petitioners came to be impugned by the present petitioners in terms of filing of CWP No. 14084 of 2010. Vide order dated 10.8.2010 (Annexure P-15) the writ petition was dismissed. The findings of the Inquiry Committee as also the orders dispensing with the services of the petitioners were accordingly upheld.

3. Learned counsel for the petitioners would vehemently argue that the petitioners at this point of time would be vested with a right as regards reinstatement in service on the post of E.T.T Teacher on account of the fact that certain other candidates who were similarly situated and in relation to whom the Inquiry Committee had returned findings as regards their qualifications also not being recognized, their services have either been retained or they have been reinstated. In this regard counsel would make a pointed reference to the findings of the Inquiry Committee relating to the Gandhi Hindi Vidyapeeth, Allahabad, Uttar Pradesh which had also been found to be not recognized and the 13 candidates, who had undergone the Diploma Course are stated to have been retained in service/have since been reinstated. It is on the strength of such 13 candidates having been retained in service/reinstated that the plea of discrimination has been raised in the present writ petition.

4. I am unable to accept the contention raised by learned counsel for the petitioners. The concept of equality as enshrined in Article 14 of the Constitution of India is a positive concept. Provisions of Article 14 of the Constitution of India

cannot be invoked to perpetuate an illegality. Even if, it is to be accepted that certain candidates, who do not possess recognized certificates for the post of E.T.T Teacher have been retained in service or have been reinstated inspite of findings having been returned by the Inquiry Committee against such institute would not vest in the present petitioners to press for the reinstatement on the post of E.T.T Teacher. More so, this view is being taken in the light of the fact that the findings of the Inquiry Committee as also the orders of dispensing with the services of the petitioners had been challenged earlier in point of time in terms of filing of CWP No. 14084 of 2010 before this Court and the same admittedly having been dismissed on merits in terms of judgement dated 10.8.2010 (Annexure P-15).

5. In the light of the reasons furnished herein above, the present writ petition is dismissed. However, this Court while dismissing the petition would have no option but to take cognizance of the facts that have been pleaded in the present petition which are that inspite of an Inquiry Committee constituted in pursuance to the orders of this Court having returned findings against certain institutes to be not recognized, still the candidates who possess qualifications from such unrecognized institutes have been permitted to continue on the post of E.T.T Teacher or have since been reinstated. Accordingly, a copy of this order along with a complete set of the writ paper book be furnished to learned State counsel so that the matter be looked into at the hands of respondents no.1 & 2 to ensure that candidates who do not possess recognized qualifications in terms of the findings recorded by the Inquiry Committee are not allowed to be retained in service on the post of E.T.T Teachers. It is expected that the State Govt. shall take the consequential remedial action strictly in accordance with law and do so expeditiously.