
(2024) 12 SHI CK 0012
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 1069 Of 2019

Tripta Devi & Another

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

Date of Decision : 02-12-2024

Acts Referred:

Citation : (2024) 12 SHI CK 0012

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Sanjeev Bhushan, Sohail Khan, Gobind Korla

Final Decision : Dismissed

Judgement

Satyen Vaidya, J

1. By way of instant petition, petitioners have assailed communication dated 10.12.2012 (Annexure P-7), whereby the representation of the petitioners against their termination as JBT Teachers was rejected. The petitioners have also sought direction for their reinstatement in service with all consequential benefits i.e. pay, arrears and seniority etc.

2. It is not in dispute that the petitioners were appointed as JBT Teachers by the respondents vide office order dated 16.8.1988. Their services were terminated on 18.1.1989.

3. The services of the petitioners were terminated on the ground that on verification, the JBT Certificates produced by them for employment were discovered to be fake.

4. An FIR was registered. After investigation, prosecution was launched against the accused persons including the petitioners. The criminal trial resulted in acquittal of the petitioners vide judgment dated 25.9.2006, passed by the learned Special Judge (Forest), Shimla. An appeal against the acquittal was preferred before this Court being Criminal Appeal No. 152 of 2007 but the same

was also dismissed vide judgment dated 16.3.2011.

5. The petitioners after the passing of judgment by this Court in Criminal Appeal No. 152 of 2007 submitted representation dated 17.10.2011 to respondent No.2 which was rejected vide impugned communication Annexure P-7.

6. The grievance raised by the petitioners is that their termination is in violation of principles of natural justice as neither any inquiry has been conducted against them nor they have been heard at any point of time.

7. The respondents have contested the claim of the petitioners by alleging that the petitioners had obtained the employment as JBT Teachers on the basis of fake JBT Certificates. On verification conducted immediately after the joining of the petitioners, the factum of certificates of the petitioners being fake was discovered.

8. The respondents have also submitted that apart from petitioners, the services of many other similarly situated JBT Teachers were terminated. The aggrieved persons had assailed the termination orders by filing O.As. before the erstwhile H.P. State Administrative Tribunal and by a common judgment dated 26.9.1995, with lead case as O.A. No. 346 of 2087, titled as, Kamlesh Kumari & others vs. State of H.P., the O.As. were allowed and directions were passed against the respondents to reinstate the petitioners without back wages. The matter finally reached the Supreme Court and an order in following terms was passed by the Hon'ble Supreme Court on 9.12.1997 in Civil Appeal Nos. 7835-7842:-

"The High Court allowed the writ petitions of the respondents mainly on the ground that the contesting respondents have not given an opportunity to show that their appointments were on the basis of correct and genuine certificates and not on false/fake certificates as alleged by the appellants (vide para 22 of the judgment). There is no ground to interfere with the Tribunal's judgment except to modify it slightly with the direction to the appellants to give an opportunity to the respondents individually to show cause and establish that the certificates were not false and fake and that their appointments were on the basis of genuine certificates. As and when they establish the fact that the certificates were genuine and not fake once, it must be taken that their appointments were valid. In view of the long pendency of the matter, the appellants are directed to commence and complete the enquiry within six months. The appeals are disposed of accordingly. No costs."

9. Thereafter, the respondents got an inquiry conducted and the inquiry officer Sh. B. K. Sondhi, (Assistant Director) also found the certificates of the petitioners as fake. The petitioners and other similarly candidates were issued notices by the inquiry officer and finally they were also informed that their certificates were found fake vide communication dated 27.1.2000.

10. I have heard learned counsel for the parties and have also gone through the record carefully.

11. As is evident from the facts of the case, the services of the petitioners were terminated w.e.f. 18.1.1989 and they represented against their termination for the first time vide representation dated 17.10.2011 i.e. after a lapse of twenty one years. The instant petition was filed by them in the month of March, 2014 after their representation had been rejected on 10.12.2012. The explanation rendered by learned Senior Counsel appearing for the petitioners is that the cause of action had arisen in favour of the petitioners after the passing of judgment dated 16.3.2011 by a Division Bench of this Court in Criminal Appeal No. 152 of 2007.

12. The explanation rendered on behalf of the petitioners cannot be accepted. Criminal action and service matter are governed by separate set of rules. The cause of action, if any, had arisen in favour of the petitioners on 18.1.1989, when their services were terminated. Thus, the petition filed by the petitioners suffers from delay and laches and the same is without any explanation.

13. Even otherwise, the petitioners have not been able to make out any case on merits. In rejoinder filed by the petitioners, they have admitted that they had received notice/communication from Sh. B.K. Sondhi. They also admitted that they had responded to such notices, still they have raised the grievance that no further inquiry was conducted by Sh. B.K. Sondhi and the petitioners were not provided opportunity of being heard. As is evident from order dated 9.12.1997, passed by the Hon'ble Supreme Court in Civil Appeals No. 7835-7842 of 1996, direction was to given to provide an opportunity to the affected persons individually to show cause and establish that their certificates were not false and fake and their appointments were on the basis of genuine certificates. Thus, the onus was on the candidates including the petitioners and once they had received the communication from the inquiry officer, it was for them to have satisfied the inquiry officer about the genuineness of their certificates.

14. The Court has also been informed that the petitioners have already crossed the age of retirement.

15. In light of above discussions, there is no merit in the instant petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed of.