

Sr. No. 220

Date of Decision : March 23, 2015

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Whether the judgment should be reported in the digest ?

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Mr. Tarun Walia, Advocate
for the respondents.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of order dated 28.09.2012 (Annexure P-13), vide which, his appeal against the termination of his service, has been dismissed.

Vide order dated 05.11.2009 (Annexure P-7), the services of

the petitioner, who was working as a Tractor Driver with the Punjab Agriculture University (hereinafter referred to as – the University), were sought to be terminated. This order of termination was preceded by a charge-sheet, a departmental inquiry and acceptance of the inquiry report by the Vice Chancellor of the respondent University. As a result of the above, as per the orders of the Vice Chancellor of the respondent University, the services of the petitioner were terminated. The termination order was challenged by the petitioner before this Court through **C. W. P. No. 20462 of 2009**, in which, following order was passed :-

“The present petition has been filed for quashing of order dated 5.11.2009 vide which services of the petitioner have been terminated.

Learned counsel for the petitioner submits that order terminating the services of the petitioner has been passed in an illegal and unlawful manner and no opportunity of hearing was given to the petitioner and the impugned termination order is violative of principles of natural justice.

A preliminary objection has

been raised in the written statement filed on behalf of respondents No.1 and 2, which is on record. As per preliminary objection raised on behalf of respondents No.1 and 2, under Section 16(7) of the Act and Statutes of the PAU, Ludhiana, the petitioner has not availed the remedy of filing appeal before the Board of Management and without availing the remedy of appeal, the present petition has been filed.

No replication to the reply has been filed to wriggle out the preliminary objection raised by learned counsel for the respondents.

Since the petitioner has not availed the remedy of appeal as mentioned above, no ground is made out to interfere at this stage. The petition is dismissed. However, the petitioner is at liberty to avail the remedy provided under the Rule.”

In an intra-court appeal, filed against the above order, being

L. P. A. No. 546 of 2012, on 23.04.2012, a Division Bench of this Court,

passed the following order :-

“This Letters Patent Appeal has been filed by appellant Nirmal Singh challenging the order dated 26.7.2011, passed by the learned Single Judge, whereby his writ petition (Civil Writ Petition No. 20462 of 2009) impugning his termination order was dismissed on the ground that the appellant has an alternative remedy of appeal under Section 16 (7) of the Act and Statutes of Punjab Agriculture University, Ludhiana, which has not been availed by him. The review application filed against the said order has also been dismissed by the learned Single Judge vide order dated 19.12.2011. After arguing for some time, learned counsel for the appellant states that the appellant be permitted to withdraw this appeal with liberty to avail the remedy of appeal.

Dismissed as withdrawn with the aforesaid liberty. If the appellant files

the appeal against the punishment order within a period of fifteen days from today, the Appellate Authority is directed to consider and decide the appeal on merit within further period of four months, by passing a speaking order.”

In view of the liberty granted by this Court in the above quoted orders, the petitioner preferred an appeal before the Board of Management against the order of termination of his services. On consideration of the appeal filed by the petitioner, the Board of Management authorized the Vice Chancellor of the respondent University to grant hearing to the petitioner and then pass appropriate orders. Vide the impugned order dated 28.09.2012 (Annexure P-13), the appeal filed by the petitioner was dismissed under orders of the Vice Chancellor of the respondent University.

The dismissal of the appeal of the petitioner through order dated 28.09.2012 (Annexure P-13) is the subject matter of challenge by the petitioner in the present writ petition.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

Once it is the admitted position before me that the impugned order of rejecting the appeal of the petitioner, has been passed by the same

Authority, against whose orders the appeal had been preferred, then without any hesitation I order the quashing of the impugned order being tainted with real and substantial bias. Admittedly, initially the punishment order in the case of the petitioner was passed by the Vice Chancellor of the respondent University. In a statutory appeal preferred against the punishment order before the Board of Management, the Vice Chancellor was authorized and actually took a decision thereupon. He thus became a judge in his own cause, which is impermissible in law.

The matter is now remitted back to the Board of Management to decide afresh the appeal filed by the petitioner. It is directed that when the appeal filed by the petitioner is taken up for consideration, the Vice Chancellor will not take part in such proceedings. It is further directed that the decision by the Board of Management on the appeal filed by the petitioner be taken expeditiously and preferably within four months from the date of receipt of a certified copy of this order.

The writ petition stands allowed in the aforesaid terms.

No costs.

(DEEPAK SIBAL)
JUDGE

March 23, 2015

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