

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 19485 of 2012

Date of Decision : August 10, 2015

Kulbir Singh Petitioner

Vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Anil Ghangas, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

Mr. Sandeep Punchhi, Advocate
for respondent no. 3.

* * *

DEEPAK SIBAL, J. :

On 30.01.2007, the petitioner was appointed as a Lecturer in Mathematics (on temporary basis) by Sri Guru Hari Singh College, Sirsa (hereinafter referred to as – the respondent College). Through order dated 21.01.2009, his services were confirmed w.e.f. 01.02.2009.

Vide advertisement dated 09.11.2009, the Haryana Public

Service Commission invited applications for filling up posts of Lecturers/Assistant Professors in Mathematics. The petitioner, being eligible, applied through proper channel for consideration of his candidature. On being selected, the petitioner represented to the respondent College to relieve him, but such representation of his was rejected. The petitioner was asked by the respondent College to submit his resignation along with three months' salary. On an objection raised by him with regard to deposit of three months' salary, since the respondent College was an aided institution, the matter was referred to Government of Haryana, which, while relying on instructions dated 29.01.2008 (Annexure RI-2/I/T), also rejected the request made by the petitioner and reiterated that the resignation of the petitioner should be accompanied with three months' salary. The above action, on the part of the respondent College, as also the State of Haryana, has been challenged by the petitioner through 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.

It is not disputed that as per the terms of appointment of the petitioner, he could submit his resignation with immediate effect by depositing one month's salary. That being so, the demand raised by the respondent College from the petitioner, to deposit three months' salary, being against the terms of his appointment, which in fact were laid down by

the respondent College itself, is illegal.

The stand of the State of Haryana also cannot be sustained. The only reliance of the State for asking the petitioner to deposit three months' salary while submitting his resignation is on its instructions dated 29.01.2008, which are reproduced below :-

“From

*Higher Education Commissioner,
Haryana, Panchkula.*

To

*Principals,
All Private Aided Colleges in Haryana State.*

*Memo No. KW 3/2-2002 C-IV (3)
Dated : Panchkula 29.01.2008*

Subject : For depositing three months salary of notice period.

With reference to the subject cited above.

This has been decided, after consideration by the Govt. that those lecturers, who after taking leave join other institutions after appointment and after submitting the notice of three months resign from that institution, can not be exempted from depositing three months salary. Besides this the letter (bearing memo No. 3/2-2002 C-IV (3) dated 11.10.2002) issued by

Additional Director, may be treated as cancelled.

*Action be taken accordingly as above please
and receipt may also be acknowledged.*

*Sd/-
Assistant Director College-II
for Higher Education Commissioner,
Haryana, Panchkula*

[Emphasis supplied]”

A perusal of the above quoted instructions clearly shows that the same apply to teachers, who, after taking leave, joined other institutions. As the petitioner had not taken any leave before joining the State of Haryana, the above quoted instructions are clearly inapplicable in his case.

I am informed that the petitioner already stands relieved, subject to the decision in the present petition.

In view of the above, as per the terms of his appointment, the petitioner was liable to pay, at the time of submitting his resignation, salary for one month, which he is directed to deposit.

The writ petition stands allowed in the above terms.

No costs.

**(DEEPAK SIBAL)
JUDGE**

August 10, 2015