

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

1. CWP No.14870 of 2014 (O&M)
Date of decision : 20.07.2015

Anil Kumar ...Petitioner

Versus

State of Haryana and ors. ...Respondents

2. CWP No.18224 of 2014
Date of decision : 20.07.2015

Rajesh Kumar ...Petitioner

Versus

State of Haryana and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Manoj Makkar, Advocate for the petitioner.
(In CWP No.14870 of 2014)

Mr. Jasbir Mor, Advocate for the petitioner.
(In CWP No.18224 of 2014)

Mr. Keshav Gupta, AAG, Haryana.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of CWP No.14870 of 2014 &

CWP No.18224 of 2014 as same questions of fact are involved. Facts are

being taken from CWP No.14870 of 2014.

Both the petitioners namely Anil Kumar, Rajesh Kumar assailed the termination order dated 26.02.2014 (Annexure P-10), whereby services of the petitioners have been terminated.

Mr. Jasbir Mor, learned counsel appearing on behalf of petitioner submits that petitioners have been appointed as Tool and Die Maker and Fitter Instructor on contractual basis. While in service, on the basis of complaint made by one Smt. Poonam wife of Virender, an FIR bearing No.64 dated 18.02.2014 under Sections 294/506/34 IPC, Police Station Gohana Sadar, District Sonapat was registered. It has been stated that during investigation, complainant submitted an affidavit that the petitioner was innocent and had nothing to do with the FIR and the police did not file the challan against the petitioner except against one Rajender Singh Chahal.

It has further been argued that petitioners were flabbergasted to see the order of termination dated 26.02.2014 (Annexure P-10) which is against the principles of natural justice, much less, no enquiry, or any charge sheet has been served upon the petitioners and the petitioners have not been given any opportunity of hearing to give their defence.

In para No.12 at page No.10 of the writ petition, following averments have been made:-

“12. That surprisingly on 26.02.2014 the Principal respondent No.3 terminated the services of the petitioner without hearing the petitioner and also without holding an enquiry which is illegal arbitrary against the principals of natural justice and same is not sustainable in the eye of law. The order dated 26.02.2014 where by the services of

the petitioner has been terminated is annexed here with the petition as Annexure P-10.”

And while responding to the aforementioned averments, State has filed reply which is as under:-

“13. That the contents of para 13 of the writ petition are admitted being matter of record.”

Keeping in view the aforementioned pleadings, it is irresistibly concluded that no enquiry, much less, charge sheet has been served upon petitioner before passing of the order of termination.

It is settled law that petitioners who have not been challaned in the aforementioned FIR and even the third accused namely Rajender Singh Chahal who was charge sheeted has been acquitted by the trial Court on 28.07.2014 (Annexure P-12), the respondent authorities were enjoined upon obligation to give opportunity of hearing, much less, show cause notice in accordance with law before imposing the punishment of termination.

Mr. Keshav Gupta, learned counsel appearing on behalf of State submits that no doubt, enquiry was not held against the petitioners but the fact remains that petitioners were involved in the offence which invited the ire of the employer in dispensing with the service by passing the impugned order.

I have heard learned counsel for the parties and appraised the paper book.

Keeping in view the aforementioned facts and pleadings extracted above, it is ex-facie proved that before passing of the order of termination, the petitioners were never served show cause notice, charge-

sheet or any enquiry. In essence, the petitioners have been denied the opportunity of hearing, much less, prevented in raising their defence.

Impugned order dated 26.02.2014 (Annexure P-10) which is punitive in nature is wholly not sustainable tenable in law and is hereby quashed.

However, this order of mine shall not debar the respondents from initiating the proceedings in accordance with law with the petitioners if any.

Petitioners are at liberty to claim regularization by relying upon the order if any passed by the different courts including Hon'ble Supreme Court.

Petitions are, accordingly, disposed of, in aforesaid terms.

20.07.2015

pawan

**(AMIT RAWAL)
JUDGE**