

**110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CWP-6879-2015(O&M)
Date of decision : 07.05.2015**

VIKAS KAUSHAL

..... PETITIONER

VERSUS

STATE OF PUNJAB AND ORS

..... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Sandeep Jasuja , Advocate
for the petitioner.

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

AJAY TEWARI, J. (Oral)

The petitioner was appointed on ad hoc basis and was on probation. In his appointment letter it had been clarified that his services would be liable to be terminated in case a regularly selected employee joins. One regularly selected employee came and at that stage respondent No.2 passed an order terminating the services of the petitioner on the ground that during his service his work and conduct was not satisfactory. The petitioner has challenged that order by filing this petition on the ground that in normal circumstances on the joining of a regularly selected employee the junior most ad hoc employee has to be asked to make way. The second argument is that by terminating his service on the ground that his work and conduct was not satisfactory a stigma has been cast on him and before this stigmatic order could be passed, a regular inquiry must have been held. It is further argued that at no stage during his service of about two years either any notice or warning was issued to the petitioner that his work and conduct was not

satisfactory. In these circumstances he has prayed that the impugned order terminating his services be set aside.

In my opinion the argument raised is too extreme. Here was a case where many employees were appointed on ad hoc basis to tide over a shortage pending regular selections and, the issue before respondent No.2 was as to which of the employee had to be let go when one regularly selected candidate came. Had it been a case where all the employees were equal in the performance of their duties, no doubt it was incumbent that the junior most would make way but where respondent No.2 had come to conclusion that the work and conduct of the petitioner was not as good as the other employees, the only option before him would be to terminate the services of the petitioner during probation and, for that the only ground which could be taken would be that his services were not satisfactory. It is for this precise reason that Courts have held that an order discharging an employee during probation cannot be held to be stigmatic merely because the phraseology used is as per the contract viz. service not satisfactory.

Resultantly no fault can be found with the action of respondent No.2. However, it is clarified that in the circumstances of this case the order would only be taken to mean that the petitioner's work was not as good as that of his other colleagues and the order is not to be deemed to be stigmatic.

Petition stands disposed of in the above terms.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)

May 07, 2015
sunita

JUDGE