

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

LPA No.493 of 2015 (O&M)

DATE OF DECISION : August 04, 2015

Gymkhana Club, Sector 3, Panchkula

.... APPELLANT

Versus

Karam Singh and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Lokesh Sinhal, Addl. A.G., Haryana,
for the appellant.

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SATISH KUMAR MITTAL, J.

The Gymkhana Club, Sector 3, Panchkula has filed the instant intra-court appeal under Clause X of the Letters Patent against the judgment dated 10.10.2014 passed by the learned Single Judge, whereby the writ petition (C.W.P. No.17747 of 2011) filed by respondent No.1 challenging his termination from the post of Barman, has been allowed and the termination order was set aside with all consequential benefits.

Though this appeal is barred by limitation, and along with the appeal, the appellant has filed an application (CM No.1001-LPA of 2015) for condonation of 35 days delay in filing the appeal, yet without taking the said delay into consideration, we have heard the learned counsel for the appellant on merits and gone through the impugned order passed by the

learned Single Judge.

Undisputedly, in this case respondent No.1 was appointed by the appellant-Club as Assistant Barman w.e.f. 1.9.1994. On 20.5.1998 he was promoted as Barman. After completion of more than 17 years of service, on 23.2.2011 the services of respondent No.1 were terminated on the ground that he had committed misconduct as mentioned in the show cause notice for termination of his services. Undisputedly, before passing the order of termination on the basis of the alleged misconduct, no departmental enquiry was held. Only show-cause notice was issued in which serious allegations were levelled. The respondent No.1 was not provided any opportunity to rebut those allegations by leading evidence by conducting the domestic enquiry. Keeping in view these factors, the learned Single Judge while relying upon various judgments of Apex Court and this Court, set aside the order of termination being violative of the principles of natural justice and directed the appellant authorities to do the needful granting all the consequential service benefits to respondent no.1.

Learned counsel for the appellant argued that the appellant-Club is not an authority within the meaning of Article 12 of the Constitution of India, therefore, no writ petition was maintainable against it. No such point was raised or argued before the learned Single Judge. Therefore, at this stage, we are not inclined to go into this argument, particularly when undisputedly it has been established on record that services of respondent No.1 were terminated after 17 years of service even without following the basic requirement of principles of natural justice, that is, without holding any domestic enquiry and providing opportunity to respondent No.1 to

controvert the serious allegations levelled against him in the show-cause notice, on the basis of which termination order was passed. In our opinion, the learned Single Judge, keeping in view the peculiar facts and circumstances of the case and finding glaring violation of the principles of natural justice, has rightly set aside the termination order with direction to follow the necessary consequences.

In view of the aforesaid, we do not find any merit in the appeal and the same is hereby dismissed.

(SATISH KUMAR MITTAL)
JUDGE

August 04, 2015
vkg

(HARINDER SINGH SIDHU)
JUDGE