

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

**RA-CW No.123 of 2015 in
CWP No.8533 of 2013**

Date of decision: 21.08.2015

Ram Avtar Saini @ Ramautar Saini

....Applicant/Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. D.S. Rawat, Advocate
for the applicant/petitioner.

Mr. Vikas Malik, DAG, Haryana
for respondents No.1 to 3.

Mr. Aman Bahri, Advocate
for respondent No.4.

TEJINDER SINGH DHINDSA J. (Oral)

The instant application seeks review/re-calling of the order dated 09.12.2014, passed by this Court while disposing of CWP No.8533 of 2013.

Notice in the application was issued. Mr. Anil Bahri, Advocate, on behalf of the contesting Managing Committee of the school has duly appeared.

Learned counsel for the parties have been heard.

In brief, it may be noticed that the applicant, namely, Ram Avtar Saini was serving as S.S. Master in the school, in question, which is concededly a privately managed aided institution. He was dismissed from service vide order dated 25.05.2012, passed by the President of the Managing Committee of the school. Applicant preferred an appeal before the District Education Officer and the same was accepted and allowed vide order dated 05.09.2012. As such, the order of dismissal of the applicant was set-aside. Managing Committee preferred an appeal against the order passed by the District Education Officer, Narnaul and the same was allowed vide order dated 07.02.2013, passed by the Director General, Secondary Education, Haryana. Resultantly, the order of dismissal of the petitioner was upheld.

It has gone uncontroverted that the order dated 07.02.2013, passed by the Director General, Secondary Education, Haryana, was passed only on the basis that the District Education Officer, Narnaul, while accepting the appeal of the applicant/petitioner had not even afforded an opportunity of hearing to the Managing Committee of the school.

Against such brief factual backdrop, the writ petition had been disposed of on 09.12.2014 after setting-aside the orders dated 05.09.2012, passed by District Education Officer, Narnaul, as also order dated 07.02.2013, passed by the Director General, Secondary Education, Haryana and the matter was remanded to the Director

General, Secondary Education, Haryana, to decide the matter afresh on merits and after giving effective opportunity of hearing to both the parties.

The present review application has been filed by taking a stand that under the Haryana School Education Rules, 2003, the appropriate authority for hearing the appeal against an order of penalty is the District Education Officer, concerned and not the Director General. As such, the limited prayer made in the application is for re-calling the order dated 09.12.2014, passed by this Court while disposing of CWP No.8533 of 2013 and further prayer is for such remand to be made to the District Education Officer instead of Director General, Secondary Education, Haryana.

Mr. Aman Bahri, learned counsel appearing for the Managing Committee would join issue and has referred to the parent act i.e. The Haryana School Education Act, 1995, and under which by virtue of the power conferred under Section 24 the Haryana School Education Rules, 2003, have been framed. Mr. Aman Bahri, Advocate, would advert to Section 8 of The Haryana School Education Act, 1995 i.e. the parent act and wherein any employee of a private aided school who is dismissed, removed or reduced in rank has the remedy of filing an appeal within a period of three months from the date of communication of the order to the Director.

Having been confronted with such provision i.e. Section 8(3) of the parent act i.e. The Haryana School Education Act, 1995,

Mr. D.S. Rawat, learned counsel appearing for the applicant concedes that the remand made to the Director General, Secondary Education as per order dated 09.12.2014, passed by this Court while disposing of CWP No.8533 of 2013, does not suffer from any infirmity.

Learned counsel, as such, does not press the review application and submits that he is not aggrieved with the remand order and for the Director General, Secondary Education, Haryana to now pass orders afresh on merits.

However, a limited prayer for extension of time has been raised. Learned counsel for the applicant would submit that in terms of order dated 09.12.2014, liberty had been granted to the petitioner to file an appeal against the order of dismissal dated 25.05.2012, before the Director General, Secondary Education, Haryana, within a period of four weeks. Such time frame has since elapsed.

However, keeping in view the fact that the present applicant had preferred Letters Patent Appeal No.232 of 2015 and the same had been disposed of vide order dated 10.02.2015, by the Division Bench in terms of granting liberty to the applicant to file an application seeking review before the Single Bench and such course of action had been adopted by the applicant, the prayer made by Mr. D.S. Rawat, Advocate, is found to be reasonable. Even, Mr. Aman Bahri, learned counsel appearing for the contesting Managing Committee does not oppose such limited prayer.

Accordingly for the reasons accorded above, the present review application is dismissed. However, it is clarified that it would be open for the applicant to now file an appeal against the order of dismissal dated 25.05.2012, before the Director General, Secondary Education, Haryana, within a time period of four weeks from today. In the event of such appeal being preferred, the Director General, Secondary Education, Haryana, would decide the same on merits and after giving due opportunity of hearing to both the parties.

Review petition, accordingly, disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

21.08.2015
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