

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: March 23, 2015

+ RSA 117/2012

VRAJENDRA NATH GUPTA Appellant
Through: Mr. B.P. Singh Dhakray and Mr.
Shakti Singh Dhakray, Advocates

versus

SIR GANGA RAM TRUST SOCIETY & ANR Respondents
Through: Mr. N.P. Singh, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

J U D G M E N T

Appellant had sought the declaration from trial court that his termination from service was illegal. While relying upon respondent's rules and regulations governing its employees, trial court found it to be so. Whereas First Appellate Court vide impugned order of 23rd April, 2012 has held that termination of appellant's service is in consonance with the contract of his employment.

The bare facts which emerge from the impugned judgment are that Appellant was appointed by respondents as Senior Pharmacy Store Officer with Sir Ganga Ram Hospital w.e.f. 7th January, 1993 and was kept on probation for one year. Upon successful completion of period of probation, appellant's service was regularized and he was made permanent w.e.f. 14th January, 1994. Revised pay-scales and higher pay-

scales were given to appellant with retrospective effect i.e. from 1st August, 1997. It is the case of appellant that on 8th September, 2005 his services were terminated by the respondents without disclosing any specific reason. Appellant had filed the civil suit seeking declaration that termination order of 8th September, 2005 was illegal and a mandatory injunction was sought against the respondents to reinstate the appellant in service and to pay the arrears. After trial, appellant's suit was decreed by trial court on 23rd February, 2012. Respondents herein had preferred first appeal against aforesaid trial court's judgment and vide impugned order of 23rd April, 2012 appellant's suit has been dismissed.

At the hearing it was vehemently submitted by learned counsel for appellant that on 24th August, 2005, Mr. Sanjeev Gulati subordinate official of appellant had produced the list of witnesses before the Inquiry Officer, in which, name of appellant was also included as defence witness. According to appellant, he was pressurized by respondents to become hostile in favour of respondents herein or to withdraw his name from list of defence witnesses and since appellant had refused to do so, therefore, it invoked the wrath of respondents leading to arbitrary termination of service of appellant. The main contention of appellant's counsel is that permanent and regular service of appellant has been illegally terminated by respondents without disclosing any reasons and in violation of rules and regulations governing employees of Sir Ganga Ram Hospital. During the course of hearing, attention of this Court was drawn to Rule 18 of the *Rules and Regulations Governing Employees of The Sir Ganga Ram Hospital* (hereinafter referred to as Employment Rules), which reads as under:

18. Termination of Employment

A. *The employment of a permanent employees can be terminated by 3 months notice or 3 months pay in lieu of notice and that of a temporary employee at one month notice or one month's pay in lieu, unless provided otherwise in a specific agreement.*

B. *The reasons for the termination of the services shall be recorded by the Medical Superintendent and shall be communicated to the employee if he so desires at the time of discharge, unless communication in the opinion the Management will not be in the interest of the Hospital.*

C. *The employment of a probationer or casual employee may be terminated by the Medical Superintendent without any notice or any payment in lieu of notice unless provided otherwise in specific agreement with the employee.*

While entertaining the second appeal, the substantial question of law framed by Hon'ble Mr. Justice V.K.Shali, reads as under:-

“Whether the judgment passed by the district court upsetting the judgment and the decree in the suit against termination of the services by the respondents is perverse or not?”

According to appellant's counsel, termination of a permanent employment has to be preceded by three months' notice or three months' pay in lieu thereof. But in the instant case, one month's pay in lieu of notice period was offered to appellant which was refused by him. Although it was pointed out that allegations of financial irregularities are leveled against appellant to create a stigma but the impugned termination order is silent about it. It was vehemently asserted that a departmental inquiry was required to be held as appellant was a

permanent employee and his services could not be dispensed with in an arbitrary fashion as has been done by the respondents. Lastly, it was submitted that on behalf of appellant that Trial Court had rightly decreed appellant's suit and First Appellate Court has erred in reversing the well reasoned judgment of trial court and thus, it was urged that the impugned order be set aside and trial court's judgment be restored.

On behalf of respondents, it was vehemently submitted that termination of appellant's employment was strictly in terms of his employment letter and termination order is perfectly legal and justified as it is in consonance with Rule 18(A) of the Employment Rules. It was submitted by learned counsel for respondents that Trial Court has misinterpreted the aforesaid Rule and had erroneously decreed the suit, which has been rightly dismissed by the First Appellate Court and thus there is no substance in the second appeal.

Upon hearing and on perusal of the judgments of the courts below, evidence on record and the Employment Rules, I find that it is specifically mentioned in appellant's appointment letter of 7th January, 1993 that his services can be terminated on one month's notice or on payment of one month's salary in lieu thereof. Alongwith termination order of 8th September, 2005, a cheque of one month's salary is enclosed in lieu of one month's notice period.

A bare reading of Rule 18(A) of Employment Rules makes it abundantly clear that service of a permanent employee can be terminated by respondents either by serving of three months' notice or pay in lieu thereof or in terms of specific agreement. It is quite obvious the reference to the specific agreement is to the employment letter. Thus, the

employment letter gets precedence over the Employment Rules. No doubt respondents had found some discrepancies in the record maintained by appellant and in fact respondent had lost faith in appellant, which led to termination of service of appellant, but, the impugned termination letter is innocuous one and no stigma is attached to appellant's termination from service. The reasons for termination of service are required to be recorded by Medical Superintendent of respondent-hospital in terms of Rule 18(B) of the Employment Rules, but there is a rider to it. If in the opinion of the management of respondent-hospital, disclosure of the reasons of termination is not in the interest of the hospital, then respondent-hospital is not obliged to disclose the reasons for termination of service of a permanent employee. In the instant case, there is no communication on record that appellant had asked the respondents to give reasons as to why his service has been terminated. In any case, the facts of this case reveal that disclosure of the reason for termination of appellant's service was not in the interest of hospital because allegations of financial irregularities against appellant were perhaps in realm of doubt only. The discrepancies in the record maintained by appellant need not be probed into as impugned dismissal order is innocuous one. In any case, in the Employment Rules, holding of an inquiry is not envisaged and there is no challenge to the validity of the afore-referred Employment Rules.

In the considered opinion of this Court, Trial Court had gravely erred in misinterpreting Rule 18(A) of the Employment Rules to decree the appellant's suit and First Appellate Court has rightly dismissed the appellant's suit as the termination of appellant's service is in terms of his

employment letter, which is in consonance with the afore-referred Employment Rules.

This appeal lacks substance and is hereby dismissed while leaving the parties to bear their own costs.

(SUNIL GAUR)
Judge

MARCH 23, 2015
vn