

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

**CWP No.12539 of 2013 (O&M)
Date of Decision: 12.07.2016**

Santokh Singh

... Petitioner

Versus

The State of Haryana and others

... Respondents

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

Present:- Mr. Namit Kumar, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Additional A.G., Haryana.

TEJINDER SINGH DHINDSA, J.(ORAL)

The petitioner was appointed as a Data Entry Operator on a contractual basis and on a consolidated salary of Rs.3510/- per month vide order dated 11.09.2008 (Annexure P-1). He was deputed to work in the office of the Sub Divisional Officer (Civil) Ellenabad, District Sirsa.

Challenge in the present petition is to the order dated 24.05.2013 at Annexure P-7 issued by the Deputy Commissioner-cum-Chairman DITS, Sirsa whereby the contract of the petitioner has been terminated with immediate effect and he has been relieved from his contractual engagement.

Pleadings on record would show that a show cause notice dated 03.05.2013 was served upon the petitioner calling upon him to show cause and to respond as regards an allegation of alleged tampering having been carried out at the data base level pertaining to registration of certain

property in Tehsil Ellenabad dated 04.07.2012, registration Nos.1354, 1355 and 1356.

Petitioner is stated to have submitted a reply dated 06.05.2013 and a copy of which has been placed on record at Annexure P-6. Thereafter, the impugned order dated 24.05.2013 at Annexure P-7 has been passed and which has led to the filing of the instant writ petition.

The sole contention raised by counsel appearing for the petitioner is that the impugned order is founded on an allegation of misconduct and the same could not have been passed without resorting to a regular departmental inquiry.

Per contra learned State counsel by referring to the written statement would submit that FIR No.41 dated 29.01.2013, under Sections 420, 467, 468, 471, 120-B IPC was got registered on the complaint of Sub Registrar/Tehsildar, Ellenabad at Police Station Ellenabad regarding tampering and forgery pertaining to property registered on 04.07.2012 at Tehsil Ellenabad. Allegations were as regards replacement of the photographs of the sellers. State counsel would submit that the present petitioner at the relevant point of time was engaged as a Data Entry Operator and doing the work of scanning the deed documents after the registration process was over. Counsel would contend that there were serious allegations against the petitioner and under such circumstances the contractual engagement of the petitioner was brought to an end by passing of the impugned order dated 24.05.2013 at Annexure P-7 and issued by the Deputy Commissioner, Sirsa.

Counsel for the parties have been heard at length.

A fact which clearly emerges from the pleadings on record and

from the submissions advanced by counsel for the parties that the impugned order dated 24.05.2013 at Annexure P-7 is clearly founded on an allegation of misconduct against the petitioner. A Division Bench of this Court in ***Union Territory of Chandigarh and others Vs. Central Administrative Tribunal, Chandigarh Bench and others, 2011 (1) S.C.T. 777*** has clearly held that even in the case of an employee working on ad hoc or a contract basis, a departmental inquiry would have to be necessarily conducted where the order of termination is founded on an allegation of misconduct.

In the facts of the present case, perusal of the show cause notice dated 03.05.2013 (Annexure P-5) would clearly reveal that allegations pertaining to tampering in relation to a particular property registered on 04.07.2012 at Tehsil Ellenabad had been levelled against the petitioner. The fact that the impugned order is founded on an allegation of misconduct is further fortified in the light of the categorical stand taken in the written statement filed on behalf of respondents No. 2 and 3 as well.

Under such circumstances and in the light of dictum laid down by the Division Bench of this Court in ***Union Territory of Chandigarh and others Vs. Central Administrative Tribunal, Chandigarh Bench and others, 2011 (1) S.C.T. 777***, the impugned order cannot sustain.

Accordingly, the present petition is allowed. Order dated 24.05.2013 at Annexure P-7 is set aside.

Liberty is granted to the respondent authorities to pass a fresh order after instituting and conducting a regular inquiry against the petitioner pertaining to the allegations. It is, however, clarified that as a sequel to the setting aside of the impugned order, petitioner would not be taken back and engaged as Data Entry Operator on contractual basis and the same would be

subject to the fresh order that would be passed after conducting an inquiry.

Disposed of.

12.07.2016
vandana

(TEJINDER SINGH DHINDSA)
JUDGE