

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

CWP No. 19964 of 2016 (O&M)

Date of decision: 24.09.2016.

Vikas Singh Rathee

..... Petitioner.

Versus

State of Haryana and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MS. JUSTICE LISA GILL**

Present: Mr. S.K. Biriwal, Advocate, for the petitioner.

S.S. SARON, J.

The petition has been filed in the nature of public interest litigation by the petitioner-Vikas Singh Rathee claiming that he is a social worker. The petitioner seeks quashing of the order dated 02/10.12.2015 (Annexure P1) whereby in continuation of office orders dated 07.12.2012, 11.12.2013 and 25.12.2014, the deputation period of Shri Atul Shukla (respondent No.6) as Principal of the Institute of Hotel Management, Panipat has been extended for a period of further one year, i.e. 10.12.2016 or till the regular Principal for Institute of Hotel Management is appointed whichever is earlier. The petitioner also prays for a direction not to further extend the deputation period of Shri Atul Shukla (respondent No. 6) by stating that he is not suitable for the post of Principal. A further direction has also been sought for directing respondents No. 1 to 5 to fill the post of Principal through advertisement and by following the proper procedure.

We have heard learned counsel for the petitioner and have given our thoughtful consideration to the matter.

The petitioner, who has filed the petition in the nature of public interest litigation, submits that he is a social worker; however, nothing has been mentioned as to what social cause he has been espousing or has pursued. Besides, the impugned order (Annexure P1) was passed on 02/10.12.2015 and the deputation period of respondent No.6 is about to expire on 10.12.2016. The question whether it is to be further extended or not is for the authorities concerned and it cannot at this stage be said in the absence of any material that the authorities are extending the deputation period of respondent No.6. In case, it is extended, an aggrieved person can always approach the Court.

In the affidavit filed by the petitioner in support of his petition, it has *inter alia* been submitted that due to active participation of respondents No.1 to 5 for extending financial and other benefits to respondent No. 6 for the last four years, they are going to further extend his deputation period. The petitioner, therefore, has no other efficacious remedy except by way of public interest litigation.

It is to be noticed that the dispute in the present case relates to service matter and the petitioner by way of a public interest litigation seeks quashing of the extension of deputation period of respondent No.6 in pursuance of the impugned order dated 02/10.12.2015 (Annexure P1).

The Supreme Court in Madan Lal v. High Court of J&K (2014) 15 SCC 308 has observed that it had repeatedly been held that in service matters, a public interest litigation is not maintainable. A reference was made to paras 14 and 15 in the case of Hari Bansh Lal v. Sahodar Prasad Mahto (2010) 9 SCC 655, which read as follows:-

“14. In Ashok Kumar Pandey v. State of W.B. (2004) 3 SCC 349, this Court held thus: (SCC pp. 358-59, para 16)

16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in Duryodhan Sahu v. Jitendra Kumar Mishra (1998) 7 SCC 273 this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to

its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.

The same principles have been reiterated in the subsequent decisions, namely, B. Singh (Dr.) v. Union of India (2004) 3 SCC 363, Dattaraj Nathuji Thaware v. State of Maharashtra (2005) 1 SCC 590 and Gurpal Singh v. State of Punjab (2005) 5 SCC 136.

15. The above principles make it clear that except for a writ of *quo warranto*, public interest litigation is not maintainable in service matters.”

The above principle makes it clear that except for a writ of *quo warranto* public interest litigation is not maintainable in service matters. In R.K. Jain v. Union of India AIR 1993 SC 1769, the Supreme Court held that the appointment of a member of the Customs, Excise and Gold Control Appellate Tribunal is not to be gone into in a public interest litigation and only in the proceedings initiated by an aggrieved person, it

may be open to be considered. The writ petition was also not a writ of *quo warranto*. It was held that in service jurisprudence it is a settled law that it is for the aggrieved person, i.e. non-appointee, to assail the legality of the offending action. A third party has no *locus standi* to canvass the legality or correctness of the action. Only public law declaration would be made at the behest of the petitioner, a public spirited person.

In P. Seshadri v. Mangati Gopal Reddy and others (2011) 5 SCC 484, a writ petition raising dispute regarding service matter was filed before High Court in guise of PIL by a person not concerned with the service, at behest of persons interested hiding behind the veil. It was held by the Supreme Court that the writ petition was not maintainable and should not have been entertained and should have been dismissed at the threshold. The position in the present petition is also the same.

In the circumstances, there is no merit in the present petition and the same is accordingly dismissed.

(S.S. SARON)
JUDGE

(LISA GILL)
JUDGE

24.09.2016
Ramesh

Note:

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes