

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 3823 of 2015

Date of Decision:- 04.05.2016

Krishan Kumar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioner by way of present petition is seeking setting aside of impugned dismissal order dated 16.01.2015 (Annexure P-5), passed by Deputy Commissioner, Hisar (respondent No.3), on the ground that the same is total violation of the Rules/Instructions (Annexure P-2).

Petitioner was appointed on 19.12.1990 as Clerk in the office of SDO (C), Hansi, District Hisar (respondent No.2). Petitioner is ortho handicapped on account of amputation of right foot as per medical certificate dated 31.08.1978 (Annexure P-1), issued by C.M.O., Hisar.

Petitioner has faced a criminal trial in FIR No.30 dated 23.06.2009, under Sections 7, 13 and 49 of the Prevention of Corruption Act at Police Station State Vigilance Bureau, Hisar, in which, he was convicted and sentenced to undergo two years under Section 13(1)(d) of the Prevention of Corruption Act, vide judgment dated 23.01.2012. After his conviction, he was issued show cause notice dated 07.05.2012 asking as to why his services be not terminated. The said show-cause notice was challenged by the petitioner by way of CWP No.14864 of 2013 and this writ petition was dismissed, vide order dated 13.11.2014 (Annexure P-3). Thereafter, the Deputy Commissioner passed the impugned order (Annexure P-5).

Learned counsel for the petitioner has argued that as per the service Rules (Annexure P-2), the Deputy Commissioner was not the competent authority to remove the petitioner from service. Petitioner was appointed as Clerk by the Commissioner (respondent No.2) and as per the service Rules (Annexure P-2) imposing a major penalty including removal from service could only be passed by the Commissioner.

In the written statement it is admitted that respondent No.3 was the competent authority to pass the order (Annexure P-5) as he has delegated with such power vide Gazette Notification dated 18.08.2000 of Haryana Government Revenue Department, whereby the Haryana Revenue Department District Subordinate (Group C) Service Rules, 1988, have been amended more particularly the Rule 6 thereof, which reads as under: -

“6 Appointing Authority – Appointment to the posts in the service shall be made by the Deputy Commissioner, concerned.”

After the conviction of the petitioner under Section 13(1)(d) of the Prevention of Corruption Act, vide judgment dated 23.01.2012, the Deputy Commissioner, as per the above-said amendment in the Rules, was the

competent authority to pass an order of dismissal. Petitioner has placed on record copy of notification dated 20.08.2000 (Annexure P-2). He has not placed on record the complete copy of the relevant rules. The Deputy Commissioner has been delegated the power to make appointment as per notification dated 18.08.2000. Once the power has been delegated to Deputy Commission to appoint Group 'C' employees, then he would be the competent authority to award the punishment of termination.

Since, the impugned order dated 16.01.2015 (Annexure P-5) has been passed by the competent authority in accordance with law, therefore, the present petition is without any merit and the same stands dismissed.

May 04, 2016
naresh.k

(**RITU BAHRI**)
JUDGE