

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

**CWP No.6459 of 2013
Decided on : 10.05.2016**

Smt. Lachhmi

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. B.S. Bali, Advocate for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

Mr. Vikas Singh, Advocate for respondent No.6.

G.S. Sandhawalia, J. (Oral)

The petitioner challenges the order dated 30.01.2013 (Annexure P-9), whereby her services have been dispensed with as an Anganwari helper and the work had been entrusted to respondent No.6-Sinder Kaur.

The case of the petitioner is that in pursuance to the letter dated 20.10.2009 (Annexure P-1), she had filed an application for consideration to the said post. Thereafter, a resolution was also passed by the Gram Panchayat on 30.11.2009 (Annexure P-3) in her favour. She was, thereafter, appointed on 04.12.2009 (Annexure P-4), but her services were terminated on 28.03.2011 (Annexure P-5) on the ground that as per rules a widow should be given priority.

She filed CWP No.6372 of 2011, which was allowed on 08.04.2011 (Annexure P-6), primarily on the ground that the

principle of natural justice had been violated and the petitioner was allowed to continue in service. However, liberty was given to the respondents to take fresh proceedings after affording an opportunity of hearing. The petitioner filed COCP No.1267 of 2011, as she was not being reinstated and, accordingly, the same was disposed on 29.09.2011 (Annexure P-7) on account of the fact that she has been reinstated w.e.f. 29.03.2011.

Thereafter, Sinder Kaur-respondent No.6 filed LPA No.714 of 2011 and in the meantime show cause notice dated 10.09.2012 (Annexure R-1) was issued to the petitioner as to why her services be not dispensed with on account of the instructions dated 20.07.2009 (Annexure R-2), which provided that a widow has to be given preference. The petitioner filed the reply to the show cause notice on 24.09.2012 (Annexure P-10) taking the plea that LPA was pending and, therefore, at this stage her service should not be dispensed with and that a proper reply would be filed after the decision of the same. The LPA was dismissed on 15.01.2013 (Annexure P-8).

The order of the learned Single Judge was upheld with the direction to the State Government to pass appropriate orders on the show cause notice within 15 days. Resultantly, the impugned order has been passed, whereby her services were terminated and the work was entrusted to respondent No.6.

Counsel for the petitioner has accordingly argued that

the order impugned is in violation of orders passed by this Court, as the said order is a non-speaking order and does not even disclose as to whether respondent No.6 had applied for the post in question. It is further submitted that as per the instructions also the petitioner was to be given priority as she had some experience, as per the resolution, which has been passed in her favour.

Counsel for the State on the other hand has fallen back on the judgment of the Apex Court and taken the plea that the writ petition is not maintainable and placed reliance upon the judgment passed in **State of Karnataka & others Vs. Ameerbi & others 2007 (11) SCC 681** to submit that the writ petition would not be maintainable.

A perusal of the earlier litigation in which the orders passed by this Court would go on to show that the earlier order dated 28.03.2011 was set aside without calling for the reply, only on the ground that she has been appointed through a proper selection process and whether the private respondent had applied or not had not even been noticed. The Division Bench had upheld the said order and liberty had given to the State to issue appropriate orders.

However, a perusal of the application received (Annexure P-2) itself would go on to show that Sinder Kaur was also one of the contenders for the post in question alongwith the petitioner. The respondents have also placed on record the fact

that Sinder Kaur had applied and Annexure R-3 has also been placed on record. The instructions (Annexure R-2) would go on to show that if there is an Anganwari Worker who has the experience then adjustment had to be made for such a person. It is not the case of the petitioner that she was working as an Anganwari Worker/Helper earlier. She had worked in a Government Primary School for two years and was cooking food, so she cannot seek the benefit, in view of the instructions, as has been contended by the counsel for the petitioner. As per the instructions, the widow is to be given priority. The other persons also similarly who have to given the benefit like widows are the persons having minimum 40% handicap, victims of riots and ladies deserted by husbands. The petitioner does not fall in any of those provided categories and only her husband is handicapped as per pleadings and she had recommendations in her favour.

In such circumstances, the basis of termination is as such in view of the instructions. Keeping in view the judgment of the Apex Court in **Ameerbi (supra)** also this Court is not inclined to interfere with the order which has been passed, which cannot be termed as arbitrary or illegal in any manner.

Accordingly, the present writ petition is dismissed.

MAY 10, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE