

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

**CWP No.9305 of 2016
Decided on : 19.05.2016**

Yashpal Singh

... Petitioner

Versus

PSEB and others

... Respondents

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

Present : Ms.Deepika, Advocate, for
Mr.Ranjivan Singh, Advocate,
for the petitioner.
Mr.G.S.Bal, Sr. Advocate, with
Ms.Manju Sharma, Advocate

G.S. Sandhawalialia , J. (Oral)

Short written statement filed on behalf of the respondents in
Court today is taken on record.

The petitioner seeks quashing of order dated 21.4.2016
(Annexure P-4) whereby the petitioner's services as Junior Engineer (JE)
were terminated on account of various serious administrative and financial
irregularities as per fact finding report which was allegedly got conducted
with respect to completion of the construction work of Art and Crafts rooms
in the schools of 9 districts. It reads as under : -

“The services of Sh.Yashpal s/o Sh.Tulsa Singh JE (Civil)
and Sh.Simranjit Singh s/o Sh.Vijendra Pal Singh, JE
(Electrical) are hereby terminated with immediate effect in
view of the conditions mentioned in their appointment
letters and in light of the decision taken by the Board
against agenda item No.02 in its meeting held on
21.04.2016, after they were held responsible for serious
administrative and financial irregularities as per the fact
finding report upon the inquiry got conducted with respect
to the non-completion of the construction work of Art &

Craft Rooms in schools of 9 districts, the construction work of which was allotted on deposit work basis to the Board by the Director General School Education under Rashtrya Madhyamik Sikhiya Abhian Project.”

It is not in dispute that the petitioner is working on contract basis but he is working since the year 2006 which would be clear from Annexure P-1 and has continued with the respondent Board for the last one decade. Though appointment order dated 15.9.2006 (Annexure P-1) provides that if the work and conduct is found unsatisfactory, the services of the petitioner can be terminated without any notice/intimation. However, it is apparent that the termination order is punitive in nature and no inquiry has been held in which the petitioner was associated. In such circumstances, reliance upon the judgment in **Sunita Rani v. State of Haryana and others**; 2011 (1) SCT 525 is well justified. The relevant portion reads as under : -

“12. This Court cannot ignore the fact that it was due to the publication of report in the newspaper that a preliminary enquiry was initiated against the petitioner and thereafter, on the basis of that enquiry, her services were dispensed with. Therefore, the services of the petitioner have not been dispensed with because of unsatisfactory performance on her part but due to the overt acts, which amounted to misconduct. If that is so, it was imperative for the employer to grant an opportunity of hearing to the petitioner. Therefore, the order of termination of services of the petitioner (Annexure P-10) may look in nocuous, but the same, for its effect and substance, is stigmatic in nature. The order (Annexure P-10) was passed in compliance of the order (Annexure P-9). Thus, an opportunity ought to have been granted to the petitioner to show cause as to whether she had inflicted the alleged punishment upon the student or not.”

The Division Bench in **Union Territory of Chandigarh and**

others v. Central Administrative Tribunal, Chandigarh Bench and others; 2011 (2) RSJ 219 in a similar circumstance also in the case of contractual employee, upheld the order of the Tribunal quashing the termination order by granting liberty to pass fresh order in accordance with law. It was also held that even in the case of terminating the employee, if the termination is found on misconduct, it would then be regarded as a punishment and the order would become stigmatic. The relevant part reads as under : -

“12. The petitioner could have adopted the mode as stipulated in clause 5 and 7. However, the petitioner adopted an erroneous mode of passing an order which makes the order as stigmatic because of allegations of sexual harassment and debarring of Shri Vinod Kumar, respondent no.2 from future employment. In the case of *Sher Singh vs. Punjab Mandi Board*, 1992 (4) SLR 713 two employees have approached this Court. One of them was given promotion on a higher post of Assistant Engineer on probation but after six months he was reverted to his substantive post of Head Draftsman. The basis of the order reverting him to his substantive post was that he was found under the influence of liquor alongwith another probationer who was also reverted. Both of them filed CWP Nos.15283 and 15621 of 1991 which were allowed by this Court as ex-facie the order of reversion was in the nature of penalty for misconduct. The Division Bench quashed the order. Thereafter, fresh orders simpliciter were passed reverting them to their substantive post with the observation that their services were no longer required in the higher post. The aforesaid order was upheld in the case of *Sher Singh* (supra). In para 6 the Division Bench has placed reliance on various judgments of Hon'ble the Supreme Court and other High Courts. Therefore, quashing of order of termination dated 22.11.2006 (P-4) does not necessarily debar petitioner from passing a fresh order in accordance with law.

Resultantly, the present petition is allowed and the impugned order 22.4.2016 is set aside and the petitioner will be entitled for all consequential benefits. However, liberty is granted to the respondents to proceed in accordance with law.

May 19, 2016

Paritosh Kumar

(G.S. SANDHAWALIA)
JUDGE