

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P No. 14301 of 2014

Date of decision: 27.10.2017

Saroj Devi

...Petitioner

Vs.

Shiksha Parishad, Kanya Gurukul,
Julana & Anr.

...Respondents

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

Present: Mr. Jitender Nara, Advocate, for the petitioner.

Mr. Suresh Ahlawat, Advocate, for the respondents.

G.S.SANDHAWALIA, J. (Oral).

The petitioner seeks quashing of the letter dated 01.04.2014 (Annexure P/3) vide which service of the petitioner has been dispensed with. Challenge has also been raised to the order dated 25.07.2014 (Annexure P/4) whereby the District Judge, Jind, rejected the appeal of the petitioner by coming to the conclusion that as per condition No.4 of the appointment letter his services could be terminated without assigning any reason by serving one month's notice. The same was accordingly done while dispensing with the services of the petitioner vide impugned order 01.04.2014 (Annexure P/3). It was also noticed that the petitioner was appointed on non-sanctioned post as an Assistant Librarian vide appointment order dated 23.07.2008 (Annexure P/2) (Colly) and there was only one post of Librarian which was sanctioned. The provisions of the Haryana Affiliated Colleges (Security of Service) Act, 1979 were held not to be applicable in a case of temporary appointment against the non-sanctioned post. Resultantly, while keeping in mind the fact that dispensing of the services of the petitioner was on the ground that there was paucity of funds, a finding was recorded that the institution could not be asked to run with the heavy staff if it was incurring loss and resultantly the appeal was dismissed.

A perusal of the appointment order would go to show that services could be dispensed with by giving one month's notice. Clause 4 reads as under:-

“4. Your service can be terminated at any time without assigning any reason, whatsoever, by serving one month's notice or with immediate effect by making payment of one month's salary in lieu of the notice period. In case you want to leave the service, you will have to give one month's notice or one month's salary in lieu thereof. In no case you will be allowed to leave the service during the current session. The College reserves the right to withhold acceptance of your resignation if tendered by during the current session.”

It is not disputed that the dispensing of the services was done by following the above said process as one month's notice was sent. As per the Rule 8(1) of Haryana Affiliated Colleges (Security of Service) Rules 1993, the appointment in service is to be made for two years in the first instance of a person appointed to any post in the service is to be on probation. Rule 3 provides that service shall comprise of all categories of post shown in Appendix A to the rules. The same does not show any post of Assistant Librarian. No such order was placed on record that the petitioner was appointed on probation or duly confirmed under the Rules thereafter to take the benefit of the Act so that reliance could have been placed on Section 7 which laid down procedure to be observed before dismissal, removal of an employee. Therefore the action of the respondent in dispensing with the service of the petitioner by falling back on the terms of the appointment letter cannot be faulted.

Resultantly, keeping in view the above facts there is no scope of interference, in the impugned order which has been duly upheld by the District Judge, Jind.

Dismissed.

October 27, 2017
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No