

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.936 of 2015

Date of Decision:-02.05.2017.

Naresh Kumar

.....Petitioner

Versus

Haryana School Shiksha Pariyojna Parishad and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Ms. Alka Chatrath, Advocate for the petitioner.

Mr. D.S. Nalwa, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has questioned the validity of Annexure P-16 by which his services have been terminated w.e.f. 6.12.2012 due to negligence. The petitioner was initially appointed to the post of Accountant in the Office of District Project Coordinator, Palwal under the Sarva Shiksha Abhiyan Mission on contract basis. Terms and conditions of appointment has been notified in the order of appointment itself. For the purpose of examining Annexure P-16-order of termination dated 29.12.2014, it is necessary to peruse para 6 of the terms and conditions imposed in the order of appointment which reads as under:-

“(6) If your work and conduct is not found satisfactory or in case you are found guilty of insubordination, intemperance or any other misconduct, your services can be terminated without giving any prior

notice.”

Having regard to the aforesaid condition in the order of appointment, there is no lacuna in the order of termination except to the extent that the order of termination has been given effect from 6.12.2012.

2.) Learned counsel for the petitioner submitted that on certain allegations, matter has been investigated into and the petitioner was not found guilty. Therefore, order of termination dated 29.12.2014 is arbitrary and illegal.

3.) Per contra learned counsel for the respondents submitted that in terms of the order of appointment, the petitioner's services have been terminated. Thus, the petitioner has no right to continue in the post of Accountant since the petitioner's appointment is only on contract basis for a particular period and it was extended from time to time. Thus, the petitioner has not made out a case so as to interfere with Annexure P-16.

4.) Heard learned counsel for the parties.

5.) Perusal of conditions imposed in the order of appointment (supra), it is suffice that the respondents have passed the order of termination with reference to the condition stated (supra). The order of termination dated 29.12.2014 is illegal only to the extent that the order of termination would be effective from 6.12.2012. In other words, retrospectively, the petitioner's services have been terminated. Retrospective termination is impermissible. Therefore, the order dated 29.12.2014 terminating the petitioner's services is read down as it is a prospective from 29.12.2014. If the respondents have not paid the salary or consolidated pay during the intervening period from 6.12.2012 to

29.12.2014, the same shall be paid to the petitioner within a period of 3

months from today.

6.) With the above observations, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

May 02, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.