

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-13231-2017

Reserved on : 10.12.2018

Date of decision : 17.12.2018

Pardeep Kumar

... Petitioner

Versus

Union Territory, Chandigarh and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU***

Present: Mr.Parveen Chauhan, Advocate
for the petitioner.

Mr.Abhishek Premi, Advocate for
Mr. Amit Jhanji, Advocate &
Mr.Abhilaksh Grover, Advocate
for respondents no.1 to 3.

RAJIV SHARMA, J.

A challenge has been laid to the order dated 03.02.2017 rendered by the learned Central Administrative Tribunal, Chandigarh in Original Application no.060/01042/2015.

2. The brief facts necessary for the adjudication of the petition are that the petitioner was promoted to the post of the Assistant Food & Supplies Officer vide order dated 21.12.2012 on the basis of the recommendations made by the Departmental Promotion Committee constituted by the Chandigarh Administration qua Class III employees of the Department of Food & Supplies and Consumer Affairs, U. T. Chandigarh. Though there is no reference to the probation period in order dated 21.12.2012 but it was stated in the Court that it was one year. Though

one year probation period was over on 20.12.2013, the same was extended by another six months vide order dated 19.02.2014. Thereafter the petitioner was issued show cause notice on 14.03.2014. The petitioner filed a detailed reply to the notice on 21.03.2014. He was reverted to the post of Inspector, Food & Supplies Grade-I, vide order dated 24.03.2014. The petitioner filed an appeal against the order dated 24.03.2014. The appellate authority rejected the appeal on 07.10.2015. The petitioner filed the original application as per details given hereinabove. It was also dismissed by the Central Administrative Tribunal on 03.02.2017.

3. The petitioner's probation was over on 20.12.2013. No provision has been brought to the notice of the Court whereby the probation period, which had expired on 20.12.2013, could be extended for another six months vide order dated 19.02.2014. The petitioner has been issued show cause notice to which he has filed reply on 21.03.2014. The gist of the show cause notice is that the petitioner has maintained association with Mr. Shambhu Benerjee, National President, Rashtriya Lok Kalyan Party. This party had staged various protests against the department. It was also stated in the show cause notice that he was seeking information from the department under the Right to Information Act. This was viewed as question mark on his integrity. The petitioner was reverted on 24.03.2014. It is evident from the language used in the notice that it was punitive and stigmatic. In case the petitioner was found indulging in any misconduct, the regular inquiry could be instituted against him. The order reverting the petitioner though is simpliciter but the moment, veil is lifted it is based on misconduct attributed to the petitioner vide show cause notice dated 14.03.2014. The learned Tribunal has made a reference to the judgments to

the effect that the period of probation could be extended even if earlier period had come to end. However no judgments were cited in the order.

4. The order reverting the petitioner is vindictive. The petitioner has absolute right to get the information under the Right to Information Act. Seeking information under the Right to Information Act cannot put question mark on his integrity. The appellate order has also over looked this aspect. The learned Tribunal has over looked the basic principles of service jurisprudence dealing with the probation period as well as stigmatic punitive order.

5. Accordingly the petition is allowed. The order dated 03.02.2017 is set aside along with reversion order dated 24.03.2014 and appellate order dated 07.10.2015. The respondents are directed to permit the petitioner to discharge the duties of the Assistant Food & Supplies Officer as per order dated 21.12.2012 with all consequential benefit.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

December 17, 2018.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No