

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

**CWP No. 21594 of 2016
Date of Decision:-24.04.2018**

Rajnish Kumar

...Petitioner

Versus

HUDA and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present:- Mr. K.L. Dhingra, Advocate
for the petitioner.

Ms. Geeta Shrama, Advocate
for the respondents.

RAJIV NARAIN RAINA J.(Oral)

Reply has been filed by the respondents.

The oral termination from service is under challenge in this petition, as the petitioner was asked not to return to work.

Central to the determination of this case is the fact that the petitioner approached this Court claiming that he has not been paid salary by HUDA for the period of 01.8.2009 to 22.4.2016 as a Data Entry Operator in the office of the Estate Officer, Kurukshetra.

When the matter came on for hearing, this Court passed interim order dated 22.4.2016 directing the respondents to supply reasons why the

salary was not paid to the petitioner and the Chief Administrator, HUDA was directed to appear in person to explain. An affidavit has been filed by the respondent-Authority in Court stating that an amount of Rs.2,00,000/- was released in favour of petitioner by way of interim relief. HUDA urged that since there is no record showing the nature of appointment of the petitioner and his work attendance, an inquiry in this regard had been ordered which was to be completed within one month.

The petitioner has also filed an affidavit stating that on account of his approaching Court, his services have been terminated through verbal orders as the Authorities were irked with him for litigating. It was directed that the Chief Vigilance Officer of the respondent-Authority be also asked to complete the inquiry within two weeks and produce the final report in Court on the adjourned date i.e. on 12.5.2016. The inquiry report had been submitted concluding the dispute as under :-

“As regard the maintenance of attendance record of Sh. Rajnish Kumar is concerned, the same has not been maintained by the Estate Office, HUDA Office due to non approval of his appointment by the competent authority i.e. either Administrator, HUDA, Panchkula office or Chief Administrator, HUDA, Panchkula office. But non maintenance of attendance record by the Estate Officer, HUDA, Kurukshetra has no significance in light of the statement given by Sh. Yogesh Ranga, Estate Officer, HUDA, Kurukshetra, Smt. Nirmal Kumari, Dy. Supdt. O/o Estate Office, HUDA, Kurukshetra, Sh. Yashpal, Assistant O/o Estate Office, HUDA, Kurukshetra, to the effect that Sh. Rajnish Kumar has

been attending the office of Estate Office, HUDA, Kurukshetra regularly since 01.08.2009 as per the office correspondence and he was performing his duty assigned to him as DEO as such.

The issue highlights an extremely important and critical issue of shortage of manpower. This also underlines as to how Head Quarter is apathetic to the concerned of field officer i.e. Administrator, Panchkula.

I am of the opinion that all E.Os. must have kept record in anticipation. In ordinary course of time they must be proceeded against. Unfortunately there are extraordinary circumstances faced by several field offices wherein they must be given certain degree of lenience. And no action is recommended. Nevertheless this is a case study that must be taken contingency at the level of Head Quarter.”

The inquiry was conducted by Shri T.L. Satya Prakash, IAS, Enquiry Officer-cum-Chief Vigilance Officer, HUDA, Panchkula, who submitted his report on 04.5.2016. The findings are significant and it may be stated that the arrears of salary have been paid. Since the money was paid, the writ petition was rendered infructuous on May 26, 2016 with a clarification that petitioner would be at liberty to challenge the order of termination of his services, if so advised. This is the second round of litigation challenging the order of termination. The petitioner has averred in para 20 of the petition as under :-

“20. That in fact the services of the petitioner were terminated w.e.f. 22.4.2016 as this Hon'ble Court directed the respondents to release salary OR the chief Administrator should be personally present in the

Hon'ble Court and this prejudiced the Chief Administrator and he directed the Estate Officer, HUDA Kurukshetra to relieve/terminate the petitionere w.e.f. 22.4.2016 whereas the petitioner remained in the office upto 25.4.2016.

ii) That in fact no orders of termination of the petitioner were passed by the respondents and did not allow the petitioner to attend office whereas this fact remained admitted during the enquiry conducted by the IAS Officer of the HUDA that the petitioner has worked as Data Entry Operator in the office of Estate Officer, Kurukshetra from 01.8.2009 to 22.4.2016 without any break and paid salary on D.C. rates for the entire period 01.8.2009 to 22.4.2016 for the period of 6 years 7 months and 22 days.”

HUDA has filed its reply in which in para 20, it is stated that the contents of the corresponding para of the petition is a matter of record. The order Annexure P-28 is a letter issued by the Estate Officer, Kurukshetra to the Administrator HUDA, Panchkula bringing to his notice after discussion with the latter Officer that there is no Data Entry Operator working with the Kurukshetra office since 20.4.2016 and in absence of such a person, work pertaining to CCTNS, CM Window, Updation, Centralized File Movement and Tracking Information System and other online activities are being badly affecting. A request was made for according permission to hire a Data Entry Operator on daily wages as per DC rates till a permanent or temporary arrangement is made by the higher authorities.

With the admission of existence of these documents in the written statement, a clear case is made out not only for setting aside the oral

order of termination but also for reinstating the petitioner to service in the same capacity he held when he was asked not to come back. If the respondents have admitted the assertions of the petitioner on the material aspects stating that they are a matter on record, that is, the contents of para 20 of the petition, I see no reason why relief should not come to the petitioner in this petition.

Accordingly, the petition succeeds. The petitioner is re-instated to service in the same capacity as he served earlier.

April 24, 2018
Vijay Asija

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No