

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

CWP-24671-2015 (O&M)
Date of decision : 04.07.2018

Sanjeev Kumar Sharma

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: None for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Vikas Chatrath, Advocate,
for respondent No.7.

JITENDRA CHAUHAN, J.

The petitioner is aggrieved against order dated 20/21.10.2015 (Annexure P-1) whereby, his services as Pharmacist from Subsidiary Health Centre, Thuliwal, District Barnala, have been terminated and respondent No.7 has been allowed to join in his place.

It is the case of the petitioner that vide circular letter dated 28.01.2010 (Annexure P-3), issued by the respondents, it was directed that only qualified Pharmacists are to be appointed on contractual basis in the Subsidiary Health Centres. In pursuance thereof, the petitioner was appointed as Pharmacist in Subsidiary Health Centre, Thuliwal, and he joined his services as such on 01.04.2010. However, the petitioner was not being allowed to mark attendance by respondent No.7, Sukhpreet Singh, Multi Purpose Health Worker (MPHW). The petitioner made complaint

dated 23.04.2010 and order dated 23.04.2010 (Annexure P-4) was passed by the Additional Deputy Commissioner, Barnala, whereby, services of respondent No.7 were terminated/discontinued. The petitioner had been working as Pharmacist at Subsidiary Health Centre, Thuliwal, till his services were terminated vide impugned order dated 20.10.2015 (Annexure P-1).

There is no assistance on behalf of the petitioner, however, it has been averred in the writ petition that the impugned order is patently illegal having been passed without affording an opportunity of hearing to the petitioner before terminating his services.

On the other hand, learned counsel for respondent No.7 contends that the oral termination of respondent No.7 and oral appointment of the petitioner was illegal. On the representation submitted by respondent No.7, an order was passed acknowledging his right of appointment and at the same time, the appointment of the petitioner was also untenable.

Heard.

A perusal of the impugned order (Annexure P-1) would reveal that the instructions issued by respondent No.3-Director, Rural Development and Panchayat Department, vide letter dated 13.06.2008, it had been directed to all Additional Deputy Commissioners (Development)-cum Chief Executive Officer, Zila Parishad, to the effect that "it be ensured that the new services provider shall appoint the staff which has been appointed by the previous service provider and any service provider that refuses to do such a thing will solicit action against himself." Thereafter, Director, Rural Development and Panchayat Department vide letter dated

08.04.2010 (Annexure R-7/1), issued directions to all the ADC-cum-CEOs Zila Parishads as “in reference of Multipurpose Health Workers decision has been taken after considering the matter that where the paramedical is already working with Rural Medical Officers, till the final decision is not taken, the Paramedical who are already working with Rural Medical Officers will not be relieved till further orders.”

Thus, the directions issued by the Government vide circular letter dated 28.01.2010, to the effect that only qualified Pharmacists are to be appointed on contractual basis in the Subsidiary Health Centres stood diluted by subsequent instructions dated 08.04.2010, so much so that it was decided that till the final decision is taken in the matter, the Paramedical who are already working with Rural Medical Officers be allowed to continue as such. Therefore, the mistake committed by the authorities in terminating the services of respondent No.7 stood rectified vide impugned order (Annexure P-1).

It has also been brought to the notice of this Court that the petitioner has now been convicted in FIR No.89 dated 24.09.2014, registered at P.S. Tappa Mandi, District Barnala, under Section 22 of the NDPS Act.

In view of the above discussion, this Court is of the considered opinion that the instant petition is devoid of any merit and the same is, hereby, dismissed.

04.07.2018
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No