

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

**CWP No. 7512 of 2016
Date of decision : 18.09.2018**

Paramjeet SinghPetitioner

versus

State of Haryana and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Manoj Makkar, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana

RITU BAHRI, J.

The present petition is against order dated 08.05.2013 (Annexure P-3) passed by respondent No. 3-Principal Government Industrial Training Institute Panipat whereby the service of the petitioner was terminated and disciplinary action by the department along with termination order dated 18.04.2016 (Annexure P-17)

Petitioner was initially appointed as COE Basic Module, Fitter Instructor on Contract Basis on 03.07.2009 (Annexure P-1) for a period of six months. Therefore, the petitioner remained absent from duty from 14.01.2013 to 08.05.2013 due to some medical problem and was advised bed rest. Respondent No. 3-Principal served the letters to the petitioner regarding his absent. In response to these letters, the petitioner gave his reply by enclosing medical certificates issued by Government Hospital and Private Hospital. The petitioner was called for personal hearing on 08.05.2013 through letter signed by respondent No. 3 on 25.04.2013, vide letter memo dated 29.04.2013 along with

list of allegations dated 25.04.2013 (Annexure P-2 colly). The petitioner remained present on 08.05.2013 and he was given termination order vide memo dated 08.05.2013 (Anneuxre P-3). On 03.09.2014, when the petitioner was completely fit, he gave a letter dated 05.09.2014 (Anneuxre P-4) to respondent No. 2 and letter dated 05.11.2014 (Anneuxre P-5) to Principal Government Industrial Training Institute Panipat with request to reinstate his services. The petitioner has also attached fitness certificate.

The Principal Government Industrial Training Institute Panipat then send a letter dated 09.12.2014 (Annexure P-6) to respondent No. 2 that the termination of services of petitioner has already been approved by IMC. The petitioner again gave request letters dated 18.12.2014 and 18.03.2015 to respondent No. 2 to reinstate him in services (Annexure P-7 and 8 respectively).

Then, the Director Industrial Training Department Haryana send letter dated 17.07.2015 to take further action regarding reinstatement of the services of the petitioner after hearing him personally(Annexure P-9). The petitioner was called for personal hearing vide letter dated 18.08.2015 (Annexure P-10) by the Principal and Deputy Commissioner/chairman/IMC Committee Panipat and the report was send to Director Industrial Training Department Haryana. Respondent No. 2 then send a letter to Principal vide memo dated 08.10.2015 (Annexure P-11). Respondent No. 2 again sent a letter memo dated 04.11.2015 (Annexure P-12) regarding joining the services of the petitioner after executing the fresh agreement and affidavit. In compliance of this letter, respondent No. 3 allowed the petitioner to join the service after executing fresh agreement and affidavit dated 09.11.2015 (Annexure P-13 and 14 respectively).

The joining report of the petitioner was sent by respondent No. 3 to Directorate, Government Industrial Department, Haryana Chandigarh, vide letter dated

10.11.2015 (Annexure P-15). Again a letter dated 04.12.2015 (Annexure P-16) was issued by respondent No. 3 to the petitioner to present his documents regarding the medical treatment. Apprehending termination, the petitioner then filed CWP No. 26132 of 2015, which was dismissed on 15.12.2015 and even LPA filed against the above said order also stands dismissed, vide order dated 01.03.2016. The petitioner was terminated on 18.04.2016 (P-17) and hence the present writ petition.

Learned counsel for the petitioner contends that in view of judgment of Hon'ble the Supreme Court of India in a case of ***Hargurpratap Singh and others vs. State of Punjab and others, 2007 (13) SCC 292***, the petitioner cannot be replaced by another set of contractual employee, as now the respondent-department again advertised the post of Instructor of various trades including fitter instructors on contract basis in various ITI's in Haryana. Against the post of petitioner, one Prem Singh has been appointed as Fitter Instructor in GITI Panipat, vide letter dated 22.12.2016 (Annexure P-19).

Learned State counsel has argued that earlier the services of the petitioner was terminated on 08.05.2013 (R-2), as his reply to the show cause notice was not found satisfactory. The appointment of Instructor in the respondent-department is governed by the Service/Recruitment Rules called Group C Service Rules, 2013. As per the rules, the appointing/re-appointing authority for the post of Instructor is Director General i.e respondent No. 2. The petitioner was again engaged as Fitter on 10.11.2015, which was in contravention of the above rules. When the matter regarding the illegal joining of the petitioner came to notice of the Directorate, the complete record was called from the office of respondent No. 3. It was found that the engagement of the petitioner was totally illegal. The petitioner played a fraud upon respondent-department in

collusion with the officials of the office of respondent No. 2. Further various irregularities amounting to misuse of office resulting into embezzlement of the public funds by way honorarium/salary to the petitioner has been detected in the matter and action of the same has been initiated.

After hearing learned counsel for the parties at length, the present petition is liable to be dismissed, as the competent authority was respondent No. 2 as per Group C Service Rules, 2013 for the appointment/re-appointment for the post of Instructor and respondent No. 3 is neither competent to engage the petitioner on contract or otherwise he is also not competent to terminate such contract which already is illegal, fraudulent, mischievous. The petitioner should not have been appointed again as it was respondent No. 2 who has to allow the petitioner to join the service. The action has already been initiated in the matter.

No ground is made out to quash order dated 08.05.2013 (Annexure P-3) and 18.04.2016 (Annexure P-17)

Dismissed.

September 18, 2018
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>