

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

**CWP NO. 1455 OF 2014
DATE OF DECISION : 20.08.2019**

Pawan Kalia

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Sameer Sachdeva, Advocate,
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Challenge herein, *inter-alia*, is to the dismissal order dated 12.01.2013 (Annexure P-7) passed by respondent No.3/Hindu Kanya College, Amritsar Road, Kapurthala, whereby the services of petitioner were dispensed with, with effect from 06.07.2012, after obtaining requisite permission from the Director Public Instructions (Colleges), pursuant to an order passed by him vide order dated 19.12.2012 (Annexure P-6).

2. While issuing notice of motion, vide order dated 10.02.2014, this Court had noted that the petitioner was not averse for an honorable discharge from service. Subsequent thereto, the respondent College/Management took a stand that it had no objection to the conversion of order of dismissal into the

one termination of simpliciter, without any stigma being casted on the petitioner, as reflected from order dated 17.08.2015 passed by this Court. However, the said offer of the respondent College/Management was not accepted by the petitioner and in the premise, the matter remained pending for adjudication on the merits of dismissal order impugned herein.

3. In the course of hearing today, learned counsel for the petitioner submits that he has no objection if the dismissal order is treated as deemed resignation of the petitioner with effect from from the date of dismissal order having been passed by the respondent College/Management.

4. A perusal of the reply filed by the State reflects that there is no objection pleaded by the State if the dismissal order of the petitioner is converted into termination/resignation, without any stigma attached to the same, as was offered by the petitioner and accepted by the respondent College/Management in the course of proceedings before this Court.

The only stand taken by the State is in the following terms :

" The enquiry officer Sh. A. K. Sharma retired District and Sessions Judge, gave findings against the petitioner on charge 1, 2 and 3 as fully proved and charge no.4 partly proved vide his report dated 23.05.2012. Therefore, the management forwarded the proposal/reference to the office of the respondent No.2 seeking approval to the proposal of dismissal. The respondent No.2 i.e DPI (Colleges) vide order

dated 19.12.2012, approved the dismissal of the petitioner by giving a personal hearings to both the parties i.e the petitioner and the Management committee. The enquiry was conducted at the level of retired District and Sessions Judge, the findings of the Enquiry Officer and that of DPI (Colleges) are based on legal, valid, cogent and convicting evidence."

5. Mr. Rajiv Atma Ram, learned senior counsel, under instructions from briefing counsel Mr. Sameer Sachdeva, Advocate submits that the respondent College/Management has no objection if the dismissal order is treated as resignation of the petitioner deemed to have been tendered on the date of passing of dismissal order. However, learned senior counsel rightly points out that the financial liability of arrears of salary arising out of the deemed resignation of the petitioner, would eventually fall on the respondent-State. He submits that the post (Superintendent) occupied by the petitioner is covered under 95% grant-in-aid scheme of the State. In fact vide an order dated 17.08.2015, this Court had granted time to the State to file an appropriate reply by giving a specific response to said contention of learned senior counsel and it was subsequent thereto, return of the State has been filed. It was admitted that post of the petitioner is covered under 95% grant-in-aid policy. In the return filed by State, no objection has been taken with regard to either the financial liability or even the conversion of dismissal order into an honourable discharge from service along with consequential

benefits.

6. In view of the aforesaid and also keeping in view the peculiar circumstances of the case, the writ petition is disposed of by treating the dismissal order dated 19.12.2012 (Annexure P-6) passed by the respondent College/Management as deemed resignation with effect from the date of dismissal of the petitioner. Needless to say that the petitioner shall be entitled to arrears of his salary upto the date of his deemed resignation along with interest @ 6% per annum with effect from the date of entitlement of his salary until the date of its actual disbursement.

7. In view of the post of petitioner being 95% aided post, it is made clear that the payment be made in the respective proportions of their liability by the respondents herein.

8. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

AUGUST 20, 2019
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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |