IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No.29371 of 2018 (O&M)
Date of Decision: September 30, 2019

Smt.Asha Grover

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Ganesh Kumar Sharma, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana,
for the State.

Mr. Jagjeet Beniwal, Advocate,
for the applicants.

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AMIT RAWAL, J.

The prayer in the present writ petition on behalf of petitioner Smt.Asha Grover is for quashing of the order dated 12.11.2018 (Annexure P-7) passed by respondent No.3-District Child Protection Unit, Bhiwani.

The facts which emanate from the writ petition are that after 2013, petitioner continued to work as Accountant on contract basis in the District Child Protection Society Office, Bhiwani. After getting good annual appraisal report like behaviour, commitment to duty and knowledge of work, her services, vide letter of intent dated 22.05.2012 (Annexure P-1), were renewed from March 2013 to 12.11.2018. While working as an Assistant, she, through letter dated 14.06.2013 intimated respondent No.2-Director-cum-Member Secretary regarding fake bills generated by the employees of the Societies pointing out names of two persons, i.e., Smt.Renu and one Amit.

Mr. Ganesh Kumar Sharma, learned counsel representing the petitioner submitted that instead of looking into the allegations in the complaint, show cause notice (Annexure P-8) was issued to the petitioner which was duly replied vide reply dated 14.05.2018 (Annexure P-9). The department without adhering to the principle of natural justice, i.e., serving of any charge sheet against the petitioner confronting with the documents or material, on the basis of one sided enquiry report dated 01.08.2018 (Annexure P-10), terminated the services of the petitioner vide order dated 12.11.2018 (Annexure P-7). In support of the contention, relied upon the judgment of this Court in **Pramod Kumar Sharma Versus State of Haryana and others, 2017(1) SCT 79** to contend that even termination of the services of the contractual employee would be open to judicial review.

Per contra, Mr. Kiran Pal Singh, learned Assistant Advocate General, Haryana representing the State relied upon the stand taken in the written statement submitted that the story of not affording any opportunity or confronting with any material is a figment of imagination as numerous opportunities as revealed from the contents of the enquiry report Annexure P-10, were given, much less documents also supplied. The contents of the enquiry report Annexure P-10 dated 20.07.2018 also reveal that the accountant-petitioner had submitted in great details of 10 bills of the period from 30.06.2017 to 05.11.2017, which she claimed to be in the handwriting of Smt.Renu and 80 bills of the period from 01.12.2012 to 03.11.2015 in the handwriting of Amit. She was directed to produce record of the comparative rates, but she feigned reluctance or impossibility to collect the same, thus, the allegations reflected in the complaint were found to be baseless. Rather it was the duty of the accountant to verify the bills diligently at the relevant point of time. On account of making false complaints and raising questions about the duty assigned to her, she was held to be unfit to work on the post of account.

There is CM No.4115 of 2019 under Order 1 Rule 10 CPC on behalf of two persons, namely, Amit Kumar and Renu to be impleaded as respondent Nos.4 and 5 represented by Mr.Jagjeet Beniwal Advocate on the premise that since the petitioner had been nursing animosity against them and filed the complaint which may not have far-reaching consequences at their career and in such circumstances, their presence is essential and necessary for the proper adjudication of the writ petition.

I have heard the learned counsel for the parties and appraised the paper book.

The facts narrated above are not in dispute. No doubt, the petitioner had made certain allegations against the proposed parties, i.e., respondent Nos.4 and 5, but the department instead of adhering to the principles akin to Punishment and Appeal Rules, terminated her services. Even if she had been engaged on contract basis but her services could not have been terminated while enquiring into the allegations made against two aforementioned persons. Regarding her handicapness in not giving the comparative rates, i.e., excessive amount reflected in the bills prepared by two persons as referred to in the enquiry report Annexure P-10 is not in dispute.

On plain and simple perusal of the enquiry report dated 20.07.2018 (Annexure P-10), it is evident that the independent gamut of allegations was to examine the contents of the complaint submitted by the petitioner. Without confronting with the enquiry, petitioner has been found to be unfit. It would be in the fitness of things to extract the relevant portion of the same, though the same is extracted in the written statement.

> "*Speculative Allegations:*
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> *The accountant has submitted a complaint to the DCPO Bhiwani about the irregularities in the office of DCPO via letter no.7305 dated 06.04.2018. The accountant has submitted in great details 10 bills of the period 30.06.17 to 05.11.17, which she claims to be in the handwriting of Smt.Renu and 80 bills of the period 01.12.12 to 03.11.15 which she claims to be in the handwriting of Sh.Amit. The account was asked to present record of the comparative rates from which deduction can be made by how much the bills are overpriced. The accountant has given in her statement that the comparative rates are impossible to collect. In absence of the comparative rates the allegations seems mere speculations of her mind.*
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> *Smt.Renu and Sh.Amit had denied in the statement that the writing on bills and the quotation was not theirs, which appears to be true prima facie.*
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> *It is worth noticing here that:*
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> > *In preparing the details from period 01.12.12 to 03.11.15, the accountant has invested many work hours to frame these speculative allegations, while she claims to be overburdened with work and has refused to obey many written orders of officials senior to her pleading that the job of the accountant is very technical in nature and peace of mind should be maintained in order to avoid mistakes. This indicates that the accountant is working with malafide intentions from the beginning and not taking interest in official work assigned to her by the senior officers.*
> >
> > *The claim that the accountant has put up before the undersigned that the comparative rates are*

> *impossible to collect, is false and misleading as she has submitted annexure 1 in which she has complained to Smt.Savitri Dhaka, Chairperson State Child Protection Office and copied it to the Director, Women and Child Development. The letter is dated 14.06.2013, which indicates that the accountant knew the matter from very beginning. She had enough time to collect the comparative rates by which the items mentioned in the complaint are overpriced. If we presume that during June 2013, she was complaining to the higher authorities without having the comparative rates and based on only her speculations, it seems that the accountant has been obstructing the office work deliberately for past six to seven years. The assumption that the accountant had comparative rates from the beginning leads to the fact that she had hidden facts and mislead the enquiry. Knowing the overcharged bills, she also approved each one of them without putting any objections on the file. This proves her malafide intentions.*

Highly Negative Attitude:

Accountant seems highly suspicious of every matter which seems evident from the following grounds:

-She tried to know who was equiring the case before appearing and refused to appear before the undersigned when asked to appear by the DCPO Bhiwani over phone on the first request.

-She took photos of gemini order of the enquiry, which seems of no use to her. When she was told that these record are not meant for her, she insisted on it and seeing her attitude the undersigned allowed her to take the snaps of the document.

-In the reply of the show cause notice served to her by the worthy DC Bhiwani, instead of giving a valid explanation, she is questioning her senior officer of the district.

-She prepared a very exhaustive report on the bills put up before her, while she keeps on complaining about

overburdened.

-She has refused to obey official orders of work distribution vide no.8079/ICPS/17 dated 25.7.17 giving suggestions to the senior officer who should be allotted which work.

-She refused to accept the copy of the letter no.261/ICPS/Bh/18 dated 01.02.2018 in which monthly report was asked to submit.

-She did not bring the comparative rates with her on 11.07.2018. When asked to give explanation about the amount of misappropriation speculated by her, she denied to state that fact in writing and said that she had already filed her written reply with annexures 1-13.

Analyzing all the facts, it is concluded that the office of the District Child Protection has suffered a lot due to the negative and suspicious approach of the accountant. Her habitual behavior of refusing the official written orders makes her guilty of gross misconduct. Instead of doing duties assigned to her in official orders, she takes keen interest in collecting quotations and analyzing old records to deliberately interrupt and delay the official work. Denying official orders while suggesting alternate arrangements and asking for explanation from the senior officers can create hevoc in public office. The negative environment created from past few years defying the fiduciary relationship among the staff members have degraded the efficiency of the office. It is the duty of the accountant to verify the bills diligently and put up the objections if any before the head on time. She has failed to perform her duties diligently. It is hereby concluded that her act and conduct makes her unfit for official work.

The report is submitted for your kind information and necessary action."

I am of the view that the procedure adopted by the respondents in dispensing with the services of the petitioner is not in germane to the provisions of service jurisprudence, particularly it is based on imputation reflected in the enquiry report. It negated the vested allegations, though in strict terms cannot spoil the career of the petitioner. She was required to be afforded a proper opportunity. Accordingly, the impugned order is set-aside. Writ petition is allowed. Respondents are directed to allow the petitioner to carry on the work, but this would not prevent them to take steps if they deem it appropriate and necessary to hold any enquiry against the petitioner in accordance with law.

Writ petition stands allowed.

September 30, 2019 **(AMIT RAWAL)**
ramesh **JUDGE**

Whether speaking/reasoned **Yes/No**
Whether Reportable: **Yes/No**