

CWP-32600-2018 (O&M)

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

**CWP-32600-2018 (O&M)
Date of decision : 16.10.2019**

Ramesh Kumar

... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ivneet Singh Pabla, Advocate
for the petitioner.

Mr. Hitesh Pandit, Advocate
for the respondents.

AMIT RAWAL, J. (ORAL)

Prayer in present writ petition is for quashing of impugned order dated 08.05.2018 (Annexure P-5), whereby the services of petitioner, have been dispensed with, without holding the appropriate enquiry.

The facts, which emanate from the pleadings of parties, are that in 2008, petitioner was appointed as Assistant Line on D.C. Rate, as per outsourcing policy, in the office of Sub-Division No.II, Kali Kamli, Thanesar, Kurukshetra. Petitioner was shocked to notice that one Gurpreet Singh son of Harjinder Singh submitted a complaint to the Department with allegation that on 16.08.2016, four employees of the Department visited his house and asked him for production of electricity bills under the pretext, that the consumption was less compared to the sanctioned load and also demanded the bribe of ₹20,000/-. Consumer, after negotiation, agreed to

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pay ₹15,000/- and he went to nearest ATM to withdraw the amount and handed over the same to the petitioner, in the presence of other employees. The aforementioned complaint was marked to the Vigilance Bureau, Haryana and after noticing the allegations as per enquiry on 17.02.2016, Enquiry Officer did not find any truth in the allegations, except that the complainant had withdrawn the amount ₹15,000/- from ATM, in other words, nothing was proved on record that such withdrawal was connected with the alleged demand. On similar set of allegations, complaint was submitted to the CM Window, Haryana and enquiry was conducted by the DSP, Vigilance, HVPNL, Karnal and accordingly, petitioner was served with show cause notice dated 29.01.2018, which was duly replied and impugned order dated 08.05.2018 (Annexure P-5), his services were dispensed with. Petitioner was surprised that other co-accused, who were similarly situated employees, were in service nor any charge has been served and in this regard, attention of this Court was drawn to the information dated 03.10.2018 (Annexure P-6), received under Right to Information Act. Petitioner has, now, come to know that vide order dated 16.08.2019, only a letter of warning, has been issued to the aforementioned employees, thus, act of the respondents, terminating the services of petitioner, is totally baseless, act of victimization, much less, discriminatory.

Per contra, learned counsel for the respondents supported the impugned order, on the premise, that the petitioner was involved in the act of taking bribe and extortion by threatening the consumer, which is a grievous misconduct, on his part and the other employees. Strong reliance was also laid to the complaint (Annexure R-1). Even regular employees were also served with the charge sheet. However, petitioner being

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contractual employee was served with the show cause notice, in order to overcome the objections of not following the principle of natural justice. On consideration of his reply, his services were dispensed with. There is hardly any scope for holding the regular enquiry against contractual employee, thus, urges this Court for dismissal of present writ petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Ivneet Singh Pabla.

The facts, aforementioned, are not in dispute, much less, exoneration of petitioner in the previous enquiry.

It is a common practice amongst the disgruntled complainants in not resting in peace, resulting into, re-agitation of issue, by availing the other remedy like CM Window Haryana, etc.

Concededly, as per contents of letter dated 16.08.2019, handed over to the Court today, mere warning has been issued to the other persons/employees, who were charge-sheeted. For the sake of brevity, contents of the same reads as under:-

"After going through the reply dated nil submitted by the official to the Charge Sheet No.13/KPT-9599 dated 22.11.2017, Vigilance Enquiry Report and Departmental Enquiry Report conducted and submitted by the Enquiry Officer-cum-Executive Engineer (OP) Division, UHBVN, Pehowa, vide his office memo No.ch-19-EF-01/2019 dated 23.07.2019 on the allegations/Charges contained in his charge-sheet, it has been decided by the competent authority to issue a letter of warning to the official to be more careful in future while performing his official duties."

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I am of the view that the respondents cannot be permitted to follow pick and choose policy, once other co-employee have been served with mere a warning viz-a-viz termination of petitioner, only on the premise, that his appointment was on contractual basis. If at all, there was something against, they could hold enquiry, but I do not deem it appropriate to even order for the same, as on the same set of allegations, for the sake of repetition, employees have been let off, thus, impugned action of the respondents does not stand on the touch-stone of doctrine of legality and reasonability. Accordingly, the impugned order dated 08.05.2018 (Annexure P-5) is hereby set aside and the respondents are directed to take back the petitioner in service along with all consequential benefits, which he is entitled to.

With the aforesaid observations, present writ petition is allowed.

16.10.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No