

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

CWP-8783-2020

Dated: 27.07.2020

Monu

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. R.K. Malik, Sr. Advocate with
Mr. Samrat Malik, Advocate
for the petitioner(s).

Mr. Vikas Bhardwaj, Addl. AG, Haryana.

MANJARI NEHRU KAUL, J (Oral):

Petitioner has approached this Court under Articles 226/227 of the Constitution of India, *inter alia* seeking a writ in the nature of *Certiorari*, for quashing of the impugned order dated 22nd June, 2020 (Annexure P-1), vide which the services of the petitioner were terminated.

2. The petitioner was working as a Chowkidar in respondent No.3 – College, having been offered the said engagement on contractual basis vide appointment letter dated 29th August, 2016 (Annexure P-4). The grievance of the petitioner in the present case is with respect to the impugned order dated 22nd June, 2020 (Annexure P-1), vide which respondent No.3 – College ordered the termination of his services with immediate effect.

3. Learned Senior counsel contends that the services of the petitioner, who was appointed on the basis of Outsourcing Policy-II No. 16/7/2015-GS-III, dated 06.04.2015, were arbitrarily dismissed by a cryptic order, in breach of the principles of natural justice and without holding any

enquiry. Further, the reasons spelt out in the impugned order (Annexure P-1) for his dismissal from service was his involvement in a criminal case FIR No. 635, dated 23rd October, 2019, registered under Sections 323, 406, 498-A, 506, 34 IPC. He further contends that respondent No.3 – College failed to take notice of the fact that prior to the registration of the aforementioned criminal case against the petitioner, there had been no complaint against him of any misconduct. Moreover, the criminal case was still pending trial and it was not that the petitioner had been found guilty and thus convicted. In support, the learned Senior counsel has placed reliance upon the judgment rendered by the this Court in ***Gurchetan Singh Vs. State of Punjab, 2015(2) SCT 340***.

4. On being put to notice, respondent No.3 filed its reply on behalf of respondents No.1 to 3.

5. Learned State counsel has defended the impugned order by referring to the appointment letter (Annexure P-4), vide which the petitioner was offered the engagement on contractual basis. Learned State counsel submits that the appointment letter clearly stipulated that the services of the petitioner could be terminated at any time without assigning any reason or giving him prior notice. Further, the learned State counsel has submitted that the petitioner had accepted this offer and had also signed an agreement as had been provided for, in the appointment letter. It has been further contended by the learned State counsel that even though it was stipulated in the petitioner's appointment letter that his services could be terminated at any time without assigning any reason, respondent No.3 – College, still issued him a show cause notice dated 08th June, 2020 (Annexure P-11) to which the petitioner responded by filing his reply dated 12.06.2020 (Annexure P-12). Since the explanation offered by the

petitioner was not found satisfactory, his services were terminated. Learned State counsel submitted that the impugned order (Annexure P-1) of termination could not be thus termed as arbitrary.

6. Heard learned counsel for the parties.

7. The submission of the learned Senior counsel that the services of the petitioner were arbitrarily terminated, is bereft of merit. The reliance placed by learned Senior counsel on **Gurchetan Singh's case** (supra) is highly misplaced and distinguishable from the case in hand. In **Gurchetan Singh's case** (supra), since the petitioner had not been convicted by any competent court of law, it was held that the impugned order was bad in law, as mere registration of FIR against the petitioner was not sufficient to establish the allegations in the FIR or disprove the character of the petitioner. However, in the case in hand, it is a matter of record that the petitioner was served a show cause notice (Annexure P-11), which was in the nature of a fact finding enquiry and the petitioner had been asked to give an explanation on the following counts:

- (i) Non intimation to respondent No.3 – College about the registration of FIR No. 635, dated 23rd October, 2019, registered under Sections 323, 406, 498-A, 506, 34 IPC, against him.
- (ii) Remaining in judicial custody in the aforementioned criminal case from 16.03.2020 to 17.03.2020 and;
- (iii) claiming salary from the State exchequer for the period when he remained in judicial custody.

It is yet again a matter of record that the petitioner in his reply to the aforementioned show cause notice admitted to the registration of the

criminal case against him, his arrest and subsequent release on bail. In the reply he further admitted that he had not intimated respondent No.3 – College about the registration of the criminal case, his arrest and subsequent release on bail due to lack of knowledge and under the impression that the police would have informed respondent No.3 – College. Further, in his reply he also stated that on 16.03.2020, he was on weekly leave and had taken casual leave on 17.03.2020. On receipt of his reply, respondent No.3 – College called the petitioner for a personal hearing before the Council Committee vide office letter No. GCBK/2020/484, dated 19.06.2020. It was only thereafter, on not finding his explanation satisfactory, the services of the petitioner were terminated vide impugned order dated 22nd June, 2020 (Annexure P-1).

8. A Government employee irrespective of he being permanent, temporary/ad-hoc or contractual, is expected to perform his duties with utmost care, efficiency and honesty. In the case in hand, the concealment on the part of the petitioner in the circumstances as referred to above, clearly points to his *mala fide* intent. It is evident that the petitioner chose to proceed on casual leave for a day on 17.03.2020, when he was admittedly in judicial custody, as the disclosure of his involvement in a criminal case and arrest would have landed him in further difficulty. The conduct and the act of the petitioner of not only proceeding on casual leave but also picking up his salary for the period while he was in judicial custody is indeed an extreme act of indiscipline. Hence, it is clearly discernible that the services of the petitioner were terminated not on account of the registration of a criminal case alone but due to his various other acts subsequent to the registration of the aforementioned criminal

case, as already noticed above, which can be termed as acts of omission on his part.

9. As a sequel to the above discussion, the grievance of the petitioner that his services were terminated arbitrarily by a cryptic order on account of his involvement in a criminal case and without holding any enquiry, is ill founded and without any merit. Admittedly, the petitioner was given an opportunity to be heard *qua* the allegations levelled against him. Once the petitioner had himself admitted to the allegations in his reply to the show cause notice, respondent No.3 – College, was not required to proceed any further in the matter and his services were thus rightly terminated. Accordingly, I do not find any infirmity or illegality in the impugned order dated 22nd June, 2020 (Annexure P-1).

10. Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 27, 2020

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No