

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

L.P.A. No.540 of 2020 (O&M)
Date of Decision: 08.10.2020

Harinder Singh

....Appellant

Versus

Sterling Transformers Pvt. Ltd. and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Puneet Sharma, Advocate,
for the appellant.

KARAMJIT SINGH, J.

This Letters Patent Appeal has been filed by the appellant against the judgment dated 18.08.2020 passed by the learned Single Judge whereby, the writ petition filed by the appellant was dismissed.

The case of the petitioner is that he was appointed as a Divisional Incharge by respondent No.1, vide letter dated 08.05.2018. His services were terminated by respondent No.1, vide order dated 10.01.2020. The appellant had filed writ petition impugning the said termination order. The said writ petition was dismissed, vide impugned judgment dated 18.08.2020, while holding as under:-

- “7. Moreover, it is abundantly clear that the impugned order (Annexure P-11) was passed by respondent No.1 – Company, which admittedly, was not performing any public functions and hence, in the wake of respondent No.1 – Company, not performing any public functions, the writ jurisdiction of this Court cannot be invoked under Articles 226/227 of the Constitution of India.
8. Dismissed.”

The appellant being dissatisfied has filed the instant appeal.

While assailing the impugned judgment, learned counsel for the appellant argued that the writ petition filed by the appellant is maintainable against both the respondents under Articles 226/227 of the Constitution of India. It is further contended that the services of the appellant were illegally terminated by the employer, i.e., respondent No.1 while acting in collusion with respondent No.2, which is a statutory authority. No show cause notice was issued to the appellant by respondent No.1 before passing the termination order dated 10.01.2020. The said illegal order was passed by the employer against the appellant, only at the instance of respondent No.2, as is evident from letter dated 10.01.2020 (Annexure P-10). The said letter was sent to the Branch Office of respondent No.1 by the official of respondent No.2 to take action against the appellant. On the receipt of said letter, termination order dated 10.01.2020 was passed against the appellant, without following the proper procedure. The aforesaid illegal action being taken by the employer against the appellant, in collusion with respondent No.2, the writ court has got jurisdiction to interfere. In support of his argument, learned counsel for the appellant referred to ***Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil, 2010(5) Law Herald (SC) 3663***. Learned counsel for the appellant while concluding his arguments contended that the appeal deserves to be allowed.

We have considered the submissions made by the learned counsel for the appellant.

We are of the view that the arguments raised by the learned counsel for the appellant that the writ petition is maintainable against the

respondents, are not sustainable.

Admittedly, there was no relationship of employer and employee between respondent No.2 (Statutory authority) and the appellant. It is admitted case of the appellant that he was employee of respondent No.1, which is a private limited company having its head office at Triputi. The appellant has failed to establish that there was any collusion between respondent No.1 and respondent No.2, with regard to termination of his services. It appears that the post of Incharge of meter readers of PSPCL (Respondent No.2) in the area of Jalandhar was outsourced to respondent No.1 and the appellant being the employee of respondent No.1, was working on the said post. He was found committing theft of electricity and fine of Rs.5,500/- was imposed on him and he deposited the same on 08.01.2020. The matter was reported to his employer by respondent No.2, vide letter (Annexure P-10) and on the same day, the services of the appellant were terminated by respondent No.1. Such a fast action, cannot necessarily imply collusion between the employer and respondent No.2. It appears that the aforesaid letter was written by respondent No.2 to get information from respondent No.1 as to what action was taken by it against the appellant subsequent to the registration of criminal case with regard to theft of electricity against him (appellant). The learned Single Judge had rightly observed that a perusal of letter (Annexure P-10), does not even directly indicate that respondent No.2 advised, much less, suggested respondent No.1 to terminate the services of the appellant.

We are of the view that respondent No.2 has been unnecessarily

dragged into the present litigation. The appellant was employee of respondent No.1. There was no relationship of employee and employer between the appellant and respondent No.2 (Statutory authority). Respondent No.2 was having no role to play with regard to termination of services of the appellant. Admittedly, respondent No.1 is a private limited company. It is not an instrumentality of the State within the meaning of Article 12 of the Constitution of India. The dispute raised in this appeal arises from a contract of personal service. The termination of the appellant is in the realm of contractual relationship between the appellant and respondent No.1. So, without going into question about the validity of termination of the appellant's services, it is held that respondent No.1 is not amenable to the jurisdiction of this Court under Article 226 of the Constitution of India. The reliance placed by the learned counsel for the appellant on *Shalini Shyam Shetty's case (supra)* is totally misplaced. In the said case, the Hon'ble Apex Court held that the High Court committed an error in entertaining the writ petition in a dispute between landlord and tenant and where the only respondent is a private landlord.

In view of the above discussion, we find no illegality or infirmity in the judgment passed by the learned Single Judge. Resultantly, this appeal stands dismissed. The miscellaneous application(s), if any, pending, also stand(s) disposed of accordingly.

(RAJAN GUPTA)
JUDGE

08.10.2020

adhikari

(KARAMJIT SINGH)
JUDGE

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No