

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

Civil Writ Petition No. 17469 of 2020

Date of Decision: October 16 , 2020.

Const. Arvind

..... PETITIONER

Versus

State of Haryana and others

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. G.S.Gopera, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl.AG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Prayer in this writ petition is for setting aside order dated 14.10.2020 (Annexure P12) passed by respondent No.3 whereby order 17.07.2020 (Annexure P5) has been withdrawn and the petitioner's services have been dispensed with immediate effect.

It is not in dispute that the petitioner was selected and appointed as a Constable on 13.07.2017. The petitioner was discharged from service vide order dated 08.12.2017 on the ground that he had not disclosed registration of an FIR against him or of his acquittal in the said case in the verification-cum-attestation form. The said order was challenged, by the petitioner in CWP No.28381 of 2017 which was allowed by a coordinate Bench on 17.10.2019 (Annexure P4). Contempt petition was thereafter filed by the petitioner. In the meantime, the petitioner was allowed to join duty as a Constable vide order dated 17.07.2020 (Annexure P5) with

a rider that it would be subject to the final outcome of the LPA to be filed on behalf of the State, challenging order dated 17.10.2019 in CWP No.28381 of 2017. The Contempt Petition was dismissed as withdrawn on 23.07.2020 (Annexure P6). LPA No.523 of 2020 filed by the State, came up for hearing before a Division Bench of this Court on 04.09.2020. Notice was issued in the application for condonation of delay and the appeal was directed to be heard alongwith LPA No.1309 of 2019 and an interim order in the same terms was passed. It is to be noted that in LPA No.1309 of 2019, the effect and operation of the impugned judgment and order therein, was stayed by the Ist Division Bench (Annexure P8).

The petitioner filed an application under Order 41 Rule 5 read with Section 151 CPC, for vacation of stay granted vide order dated 04.09.2020 in LPA No.523 of 2020, filed by the State, challenging decision dated 17.10.2019 in the petitioner's favour. Reply to the application on behalf of the State was duly filed. The said application, seeking vacation of the stay, was dismissed by the Ist Division Bench on 12.10.2020 (Annexure P10). Subsequently the impugned order dated 14.10.2020 (Annexure P12) was passed by the Commandant, 2nd Battalion HAP, Madhuban withdrawing order dated 17.07.2020 and consequently, services of the petitioner were dispensed with immediate effect.

The petitioner has challenged order dated 14.10.2020 (Annexure P12) while submitting that the same is absolutely illegal and arbitrary. Order dated 17.07.2020, it is submitted, was passed subject to the final outcome of LPA No.523 of 2020 and as the said appeal has not been finally adjudicated upon, the impugned order dated 14.10.2020 should be set aside and the petitioner be permitted to continue at his post.

Notice of motion has not been issued in this writ petition. Advance copy of the writ petition stands served. Mr. Ashish Yadav, Additional Advocate General, Haryana has joined the proceedings.

I have heard learned counsel for the parties and have gone through the file with their able assistance.

It is not in dispute that decision dated 17.10.2019 in CWP No.28381 of 2017 is the subject matter of challenge before the Division Bench in LPA No.523 of 2020 filed by the State. Interim relief in terms of order dated 03.09.2019 in LPA No.1309 of 2019 was granted on 04.09.2020, by the Division Bench in LPA No.523 of 2020. Thus, clearly the effect and operation of the impugned judgment dated 17.10.2019 in CWP No.28381 of 2017, was stayed. Application for vacation of stay granted vide order dated 04.09.2020 was dismissed by the Division Bench on 12.10.2020. Arguments raised before me today, find mention in the application seeking vacation of stay. Furthermore, there is no merit in the additional argument advanced by learned counsel for the petitioner, that order dated 17.07.2020 could not have been withdrawn vide the impugned order dated 14.10.2020, till final adjudication of LPA No.523 of 2020.

Keeping in view the facts and circumstances as above including the pendency of LPA No.523 of 2020, I do not find any ground, whatsoever, to interfere in this writ petition.

This petition is accordingly dismissed with no order as to costs.

October 16, 2020.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No