

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.22565 of 2014

Date of Decision: 11.02.2020

Balbir Kaur

...Petitioner

Versus

The State of Punjab & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gitesh Sharma, Advocate,
for the petitioner.

Ms. Devaki Anand Sullar, AAG, Punjab.

Mr. Vikram Singh Chahal, Advocate, for
Mr. Sameer Sachdeva, Advocate,
for respondent No.2.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has impugned the order dated 25.06.2014, which was endorsed on 30.07.2014 (Anneuxre P-15), vide which she has been dismissed from service on the ground that she had been working with the Sadhbhawna College of Education-respondent No.2 as a permanent regular Assistant Professor of History since 01.08.2009 at the time of inspection by a team of Panjab University on 06.03.2013, whereas the petitioner had joined the post of Lecturer (History) in Government Senior Secondary School, Raikot, Ludhiana, on 28.04.2011 on regular basis.

It is the contention of learned counsel for the petitioner that the petitioner was issued a chargesheet dated 10.05.2013 (Annexure P-7) according to which the petitioner had taken 1/3rd casual leave on 06.03.2013.

Sadhbhawna College of Education, Raikot, Ludhiana, where it came to light that the petitioner was present and has been serving the said college as a regular Assistant Professor in History and worked on the rolls of the said college. Petitioner filed a reply to the said chargesheet, which was not found to be satisfactory and an inquiry Officer was appointed on 03.08.2013 (Annexure P-9). Inquiry report dated 15.11.2013 (Annexure P-10) was submitted by the said authority, wherein the charge framed against the petitioner was found to be not proved against her. However, the punishing authority recorded a dissenting note and the same, along with inquiry report was served upon the petitioner. The petitioner responded to the same vide letter/appeal dated 19.03.2014 (Annexure P-12). Petitioner was given personal hearing on 12.06.2014 and thereafter, the order of dismissal was passed by the Principal Secretary, Punjab Government School Education Department on 25.06.2014 (Anneuxre P-15). Petitioner has challenged the said order in the present writ petition.

It is the contention of learned counsel for the petitioner that the petitioner was appointed in Sadhbhawna College of Education, Raikot, District Ludhiana as an Assistant Professor and joined there in October, 2009 and continued as such upto 11.03.2011. When she submitted her resignation to join Government Service at Government Senior Secondary School, Raisar, District Barnala, on 12.05.2011, since then the petitioner had been serving the official respondents. He contends that the basis for initiating inquiry against the petitioner is the inspection report of a team, which had come from the Panjab University with regard to affiliation of Sadhbhawna College of Education, Raikot, District Ludhiana. He contends that it is a coincidence that the petitioner was taking treatment from the wife of the Chairman of the

Managing Committee of Sadhbhawna College of Education Dr. A.K. Banerjee and had taken 1/3rd day's leave from the school to get her medical check up. It is in this process that the petitioner had gone to the doctor but finding the doctor not in her hospital, which was near to the college, she went to the college. It is during that period as a coincidence would be that the petitioner was found by the inspection team present and that the inspection report has been submitted to the Panjab University by the said team. Petitioner was not even aware of the fact that the fictitious names have been included on the rolls of the college to save its affiliation, which included the name of the petitioner as an Assistant Professor there. It is contended that after she having submitted her resignation and joined the Government service, there was no question of the petitioner to continue with the college, where she had earlier served and therefore, the basis for initiation of the proceedings under the Punishment and Appeal Rules is itself unjustified and not borne out from the record. He further contends that even the inquiry officer did not find the charges being proved against her and it is the punishing authority, which on the basis of a dissenting note, which was served upon the petitioner, without taking into consideration the correct factual position as has come out in the inquiry proceedings, disagreed with the finding in the inquiry report inflicted on the petitioner extreme punishment of dismissal from service. He further contends that the impugned order may not sustain and deserves to be set aside. Assertion is also made that the petitioner has not been paid the subsistence allowance during her period of suspension.

On the other hand, learned counsel for the private respondent No.2 i.e. Sadhbhawna College of Education has admitted the factum that the petitioner was appointed as an Assistant Professor on regular basis and had

been working with the said college. It is further asserted that she was on the rolls of the college at the relevant time when the inspection of the college was carried out by the university team, although she was on maternity/long leave. His further assertion is that the petitioner had filed an application for grant of such leave which was granted to her and therefore, the assertion of the petitioner that the petitioner was not on the rolls of the college, cannot be accepted.

On the other hand, learned counsel for the State has supported the order of dismissal passed by the competent authority keeping in view the fact that the inspection report of the University authorities clearly mentioned with regard to the presence of the petitioner in the college at the relevant time and nothing has been indicated therein that the petitioner, who was present there had denied the factum that she was not on the rolls of the college. She further contends that the competent authority on the basis of relevant record available has come to a conclusion that the petitioner has been working with the Sadhbhawna College of education and was also shown to be working in the Sadhbhawna College of Education and also working with the Government which amounted to misconduct resulting in passing of the order of dismissal from service. Prayer, thus, has been made for dismissal of the writ petition.

I have considered the submissions made by learned counsel for the parties and with their assistance have gone through the record of the case.

The facts as have been narrated above are not in dispute. The only question which requires to be considered and decided is whether the petitioner Mrs. Dalbir Kaur was working with Sadhbhawna College of Education on 06.03.2013, the date on which the Panjab University inspection team has visited the said college for the purpose of granting affiliation to the

said college continuance thereof.

The reply, which has been filed by respondent No.2-the management of Sadhbhawna College of Education leaves no manner of doubt that the petitioner was on the rolls of the college. The factum of her being present at the time of inspection has also not been disputed by the petitioner herself. There is nothing on the record which would indicate that the petitioner had denied the factum before the Inspection team that she was not working as Assistant Professor in the subject of History in the said college. The evidence, which has come on record against the petitioner, establishes the fact that the petitioner has been continuing on the college rolls by taking the plea of grant of maternity/long leave, which was duly granted by Sadhbhawna College of Education, whereas she joined as Lecturer in History with the Punjab Government and was working at the relevant time in the Government Senior Secondary School, Raikot, Ludhiana. There is overwhelming evidence available on the record on the basis of which the punishing authority has come to a conclusion that the petitioner had been on the rolls of Sadhbhawna College of Education Raikot, Ludhiana. The conclusion, therefore, by the punishing authority with regard to the charges levelled against the petitioner being approved against her cannot be faulted with. The punishment, which has been imposed upon the petitioner being in accordance with law and based on the evidence, the present writ petition is devoid of merit and therefore, deserves dismissal.

An assertion has been made that the petitioner has not been paid any subsistence allowance for the period of suspension. If that be so, the competent authority to look into the same and take a decision in this regard and if something is found payable to the petitioner, the same be released to her

within a period of three months from today.

The writ petition is dismissed in above terms.

11.02.2020
monika

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No