

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

CWP-28551-2019 (O&M)
Date of decision : 25.08.2020

Avitaj

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Brijender Kaushik, Advocate for the petitioner.

Mr. Samarth Sagar, Addl. A.G. Haryana.

ANIL KSHETARPAL, J.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India, for issuance of a writ in the nature of certiorari, for setting aside the order dated 10.09.2019 (Annexure P-1).

The writ petitioner claims that he was appointed as Special Police Officer on 12.11.2016 and his services have been terminated on 10.09.2019. It has been alleged that the petitioner is not involved in FIR No.192 dated 23.02.2016 registered under Sections 147, 148, 341, 186, 353, 506 of the Indian Penal Code, at Police Station Sadar Gurgaon. He also claims that he is not known as Bholu son of Raj Singh. He also asserts that his services have been terminated in derogation of Article 311 of the Constitution of India, as he was not given any opportunity of being heard before passing the impugned order.

Pursuant to notice, a reply has been filed to the writ petition in which it is contended that the services of the petitioner were engaged as a Special Police Officer for a limited period of one year, i.e, on temporary basis. It is further asserted that the petitioner, before the appointment, submitted an unsigned affidavit and did not disclose that the petitioner is involved in the afore-said FIR. It is asserted that the petitioner is the same person i.e. Bholu son of Raj Singh as the address of the accused Bholu and the petitioner is the same. It has further been asserted that the appointment of the petitioner has been cancelled as the petitioner has concealed material facts from the employer at the time of his appointment. It has also been asserted that during the period of service with the Police, the petitioner was also involved in FIR No.81 dated 12.05.2019, registered under Sections 171C, 171F, 188 of the Indian Penal Code at Police Station Rojka Meo, for interfering with the election process.

This Court has heard learned counsel for the parties and with their able assistance gone through the paper book.

In the considered view of this Court, the petitioner is liable to be relegated to alternative remedy for more than one reason.

The petitioner has not attached his appointment letter which would have thrown light on the terms of appointment.

The writ petitioner does not allege violation of Service Rules or appointment to a post under the State Government so as to avail the protection granted under Article 311 of the Constitution of India.

The respondents also claim that the appointment of the petitioner has been cancelled on account of suppression of material facts.

Even in the unsigned affidavit submitted by the petitioner while seeking appointment, he did not state that he was not involved in any criminal case which is required.

It may be significant to note that either in the pleadings or at the time of arguments, learned counsel for the petitioner failed to draw the attention of the Court to the fact that the removal of the petitioner is in violation of the statutory Service Rules regulating the services of Special Police Officers appointed in the State of Haryana.

As per the written statement filed, the appointment of the petitioner was only on contractual basis. Learned counsel for the petitioner did not dispute this fact at the time of arguments.

The present petition involves disputed questions of fact as the petitioner on one hand claims that he is not known as Bholu son of Raj Singh whereas the respondents positively assert that the petitioner is also known as Bholu son of Raj Singh and both are one and the same person.

Keeping in view the aforesaid facts, the present writ petition is disposed of while relegating the petitioner to avail the alternative remedy of filing a civil suit.

All the pending miscellaneous applications, if any, are disposed of, in view of the above-said order.

25.08.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No