

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 6460 of 2021 (O&M)

Date of decision : 16.9.2021

...

Vishwakarma Public School

.....Petitioner

vs.

State of Haryana and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Rakesh Nehra, Senior Advocate with
Mr. Atul Ravish, Advocate for the petitioner.

Ms. Shubra Singh, Additional Advocate General,
Haryana.

Mr. Arvind Seth, Advocate for respondent No.3.

...

H. S. Madaan, J. (Oral)

Briefly stated facts of the case are that Karamveer s/o Kartar Singh r/o 192/29, Ram Gopal Colony, Rohtak, was appointed as Post Graduate Teacher in Vishwakarma Public School, Rohtak, in August 2007. His services were terminated vide order passed by President, Shri Vishwakarma Education Society, Kath Mandi, Rohtak, managing Vishwakarma Public School Rohtak. In the said order, it was intimated that services of Sh. Karamveer were being terminated w.e.f. 15.3.2018, on various grounds i.e. i) frequent negligence of

duty; ii) repeated insubordination; iii) extremely unseemly conduct; iv) often violation of school norms; v) frequent threats to the authority and vi) late arrival. The said teacher preferred an appeal against his termination order before District Judge (Exercising the Powers of Education Tribunal), Rohtak, (hereinafter referred to as 'the Tribunal'), alleging that despite his discharging his duties properly, giving excellent result, Sh. Devinder Jangra, President, Shri Vishwakarma Education Society, Kath Mandi, Rohtak, had misbehaved with him and had humiliated, insulted and threatened him. He approached the Assistant Labour Commissioner, who asked him to approach the Court for redressal of his grievances. He had contended that grounds of termination are wrong. He was neither charge sheeted nor any enquiry was conducted against him. He prayed for setting aside of the termination.

On getting notice of appeal, respondents had appeared and denied the allegations levelled by the appellant, justifying the passing of impugned order. Learned Tribunal, relying upon the judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in ***Vishwanath Dyanoba Kirade vs. Nav Akanksha Mahila Mandal, Lokmanya Nagar, Parbhani and others*** passed in Writ Petition No. 1481 of 2012, decided on 5.2.2015, where it was observed that services of an employee of even an unaided Educational Institution cannot be terminated without following the procedure of law, which was not followed in the present case, in as much as, neither charge sheet was served upon the appellant nor any enquiry was conducted

and without taking re-course to that procedure, services of the appellant were wrongly terminated. Therefore, the Tribunal didn't find the impugned termination order to be sustainable and set it aside, though clarifying that said order would not debar the respondents from taking disciplinary action against the appellant, in case the respondents are of the view that the appellant has committed an act of omission or commission in discharge of his duties. It was observed that the appellant would be deemed to be in service with all consequential benefits. Such judgment passed by the Tribunal is dated 25.2.2021.

Feeling aggrieved by such judgment, Vishwakarma Public School, Rohtak, has filed the present civil writ petition.

Learned State counsel and Mr. Arvind Seth, Advocate for respondent No.3, are present to assist the Court in the matter.

I have heard learned Senior counsel for the petitioner, learned counsel for the respondents, besides going through the record.

Learned Senior counsel for the petitioner has argued that as per the appointment letter issued to the petitioner, he was employed in the month of August 2007, in the first instance on probation for a period of two years on temporary basis, as per School Service Rules, which could be further extended by the competent authority and furthermore during the probation or extended period of probation, if his work and conduct was not found to be satisfactory, then his services could be terminated by giving one month's notice or one

month's salary, in lieu thereof. However, after successful completion of probation period or the extended period of probation, he was to be treated as a regular employee and for terminating his services three month's notice was required to be given or in lieu thereof 3 months salary was to be paid. He has further contended that the petitioner was entitled to be confirmed only when letter of confirmation was issued to him. Thus, according to learned Senior counsel for the petitioner, service of any charge sheet to the petitioner and holding of any enquiry was not required. He has defended the order terminating the services of the petitioner, on giving him salary for one month in lieu of the notice period.

Whereas, learned counsel appearing for respondent No.3 has vehemently argued that the services of the petitioner could not be terminated by the respondents in such a manner. Though he was doubted with misconduct but petitioner should have been given an opportunity to present his view point and proper enquiry into the allegations of misconduct and only then the respondents could have taken any action in the matter.

After hearing the rival contentions and going through the record, I find that the order passed by the Educational Tribunal does not suffer from any legality or infirmity. Rather it is quite detailed and well reasoned. The Tribunal has given an opportunity to the respondents to take disciplinary action against the appellant Karamveer in case they are of the view that he has committed an act of omission or commission in discharge of his duties. Of course, the

revisionist has got a right to proceed against its employee for any misconduct, after observing rules of natural justice and service rules.

Therefore, no interference with the impugned judgment is called for. It is not a fit case to exercise the extraordinary power of writ by this Court. Therefore, the present writ petition is doomed for failure and is dismissed accordingly.

16.9.2021
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No