

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

LPA-633-2021

Date of Decision:-5.8.2021

Bhupinder Singh

... Appellant

Versus

District and Sessions Judge, Sangrur and Another

... Respondents

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

Present:- Mr. Jagtar Singh Sidhu, Advocate
for the appellant.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The appellant has preferred this appeal against order dated
22.2.2021 whereby the writ petition No.4145 of 2021 filed by the appellant
for quashing the order dated 3.6.2020 (Annexure P-7) was dismissed.

The brief facts of the case are that the appellant was appointed
as Peon in the office of District and Sessions Judge, Sangrur vide
appointment letter dated 5.8.2019. As per the appointment letter he was on

probation for a period of 2 years and if his work and conduct is not found satisfactory then his services shall be terminated without any notice. The appellant was found absent from the duties repeatedly, for which his explanation was called but the same was found unsatisfactory. Thereafter a discreet inquiry was ordered to be conducted on which it came to the notice that the criminal cases bearing CC No.768 of 2019 under Sections 145, 146, 147, 174 of the Railway Act dated 6.10.2019, Chowki RPF, Sunam; FIR No.96 dated 4.11.2019 under Sections 354-A, 506, 509 IPC, Police Station Joga, District Mansa and FIR No.19 dated 29.3.2000 under Sections 325, 323, 341 IPC Police Station Joga, District Mansa were registered against the appellant regarding which he never disclosed to his department. The appellant was asked to furnish his explanation regarding the same. The appellant did not deny the fact regarding registration of the criminal cases. This being the position, as the petitioner was under probation, the District and Sessions Judge did not deem it fit to initiate the disciplinary inquiry against him and he simpliciter terminated the services of the appellant with immediate effect vide impugned order dated 3.6.2020 (Annexure P-7).

The appellant filed CWP-4145-2021 to challenge the said order of termination of his services. The learned Single Judge heard the counsel for the appellant (petitioner therein) at length and finally dismissed the writ petition with the following observations:-

“A bare perusal of the impugned order shows that the order passed by the competent authority is giving reasons only to comply with the requirement of natural justice; of hearing the side of the

petitioner and recording some reason for its decision. The petitioner is interpreting the same to be stigma upon his character. However, neither the order specifically says that this shall be taken as stigma against the character of the petitioner, nor does the order contains any stipulation to disqualify the petitioner from future employment as per his eligibility and suitability, as such. The order is simpliciter terminating the services of the petitioner. The order is in the nature of his discharge from the service. Disciplinary authority was fully competent to discharge the petitioner from his services during probation, if his work and conduct was found to be not satisfactory. Even the terms of appointment of the petitioner so provided. Hence, if the competent authority has acted as per the rules and as per the terms of the appointment of the petitioner then no fault could be found with the same, simply because the petitioner has perceived the order to be stigmatic one. Needless to say that perception of the petitioner could not substitute the legal propositions which authorize the competent authority to discharge an employee on probation, if his/her work and conduct is not found to be satisfactory by that authority.

In view of the above, finding no merit in the present petition the same is dismissed.”

Being dissatisfied, the appellant has filed this appeal.

The counsel for the appellant argued that the order of termination of services of the appellant passed by the District and Sessions Judge, Sangrur is arbitrary and illegal. The said order was passed by the punishing authority without complying due process of law. The counsel for

the appellant further argued that no opportunity of being heard was offered to the appellant before termination of his services. It was further argued that the impugned order was passed on the basis of the alleged misconduct committed by the appellant without holding regular inquiry. The counsel for the appellant further argued that the impugned order (Annexure P-7) is clearly stigmatic and is not an innocuous in nature. It was further argued that in the circumstances the termination of services of the appellant is in gross violation of principles of natural justice, equity and fair play and thus is not sustainable. The counsel for the appellant further argued that the learned Single Judge failed to consider all the aforesaid aspects while dismissing the writ petition. The counsel for the appellant further made prayer that the impugned order (Annexure P-7) and the order dated 22.2.2021 passed by the learned Single Judge being illegal are liable to be set aside. In support of his arguments, the counsel for the appellant referred to **Dipti Prakash Banerjee vs. Satyendra Nath Bose National Centre For Basic Sciences, Calcutta and Others, (1999)3 SCC 60; Dr. Vijay Kumaran C.P.V. vs. Central University of Kerala and Others (2020) 12 SCC 426 and Indra Pal Gupta vs. Managing Committee Model Inter College, Thora, (1984) 3 SCC 384.**

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

The main thrust of the contentions raised by the counsel for the appellant is that since the termination order passed by the District and

Sessions Judge, is stigmatic, therefore the same stands vitiated due to non-holding of the departmental inquiry.

Undisputedly, the appellant was found absent from duty on several occasions. He was granted an opportunity to explain his position. However, the explanation given by the appellant was found to be not satisfactory by the competent authority. The record shows that three criminal cases as mentioned above were registered against him and in one such case he was arrested on 6.11.2019 by the police of Police Station Joga and was released on bail on 15.11.2019. The appellant gave no intimation or information regarding the same to his department. The competent authority while passing the impugned order (Annexure P-7) simply gave the brief detail of the aforesaid facts, which were concealed by the appellant from the Department. This being the position, the learned Single Judge rightly observed that whatever the stigma was attached to the character of the appellant (petitioner therein) on account of these criminal cases, already stood attached somewhere else because of the fact that the petitioner is facing these cases and he also remained in jail on account of the same. The learned Single Judge further observed that the impugned order passed by the competent authority does not attach any additional quantum of stigma to the antecedents of the appellant (petitioner therein). Needless to say that had the competent authority not mentioned these facts in the impugned order then it would have been termed as a non-speaking order and would have vitiated for this reason alone.

The appellant was given opportunity of hearing on all the facts mentioned in the impugned order (Annexure P-7). The operative part of the impugned reads as follows:-

“15. Since the official has not yet completed his probation period, therefore, the disciplinary proceedings under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 are not being initiated against him.

16. In these circumstances, since Sh. Bhupinder Singh, is proved to be not a person of good conduct and character as he has suppressed material facts regarding registration of criminal cases against him, which are still pending and has given false information regarding his absence, in view of clause (2) of his appointment letter dated 05.08.2019, his services are hereby terminated with immediate effect.

Office to act accordingly. All concerned be informed.”

The impugned order does not disqualify the appellant from future employment as per his eligibility and suitability. It is simpliciter an order of termination of the services of the petitioner. In a sense, it is order of the discharge of the appellant from the service. The District and Sessions Judge was fully competent to discharge the employee during probation period, if his work and conduct was found deficient. Even as per the appointment letter (Annexure P-2), the appointment of the appellant was purely on temporary basis and liable to be terminated at any time without assigning any reasons.

The judicial pronouncements referred by the counsel for the appellant, were properly analyzed by the learned Single Judge while passing the impugned order dated 22.2.2021. The learned Single Judge discarded the same while observing that the facts involved in those cases are totally distinguishable from the facts of the case at hand. We have also gone through the aforesaid citations. In the abovesaid cases, no FIR was registered and delinquents were not facing criminal charges in the Court. Also the facts involved in the instant case, which finds mention in the impugned order (Annexure P-7) are based on official documents. Some of the said facts were admitted by the appellant while the facts regarding registration of criminal cases and his arrest were got verified from the official sources by the Head of the Department. So, we are also of the view that the aforesaid judgments are not of any help to the appellant to advance his case.

In the light of aforementioned reasons, we are of the view that competent authority acted in accordance with law, while passing the impugned order (Annexure P-7). We also concur with the findings given by the learned Single Judge in its order dated 22.2.2021.

In wake of the above, we do not find any reason to interfere. Accordingly, this appeal is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

5.8.2021
Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No