

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

117

CWP-14941-2021

Decided on : 06.08.2021

Kewal Krishan

... Petitioner

Versus

High Court of Punjab & Haryana & another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Bhuwan Vats, Advocate, for the petitioner.

Ms.Sangita Dhanda, Advocate, for respondent No.1.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. Sandhawal, J. (Oral):-

Challenge in the present writ petition, filed under Article 226 of the Constitution of India is to the order dated 31.07.2020 (Annexure P-4) whereby the petitioner, who was serving as Peon, was discharged from service by respondent No.2. Challenge has also been raised to the subsequent orders passed in the service appeal on 05.03.2021 (Annexure P-5).

Counsel has vehemently contended that prior to the petitioner's appointment, he earlier had also rendered service for a period of 3 years and 9 months as a home peon and has clean antecedents and therefore, the order dispensing with the services, is not justified, especially since it is passed on the ground that his work and conduct was not satisfactory.

It is not disputed that the petitioner was appointed on 29.03.2019 (Annexure P-1) on probation for a period of 2 years, as per Clause 1 of the appointment order. It is apparent that even during this period, his services have been found unsatisfactory and not upto the mark. While noticing the reply of the District & Sessions Judge, the Learned Administrative Judge, while dismissing his appeal, noticed that during the lockdown and travel restrictions, he had proceeded to leave station against the advise on 15.04.2020 and had met with an accident on the borrowed motorcycle of a co-employee and had not submitted the application for the period of leave. Thereafter also, on 13.07.2020, on the pretext of his daughter being

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hospitalized, he proceeded on leave without submitting the application and that on return he would submit the same. He had come back only after 15-16 days of absence on 29.07.2020 and thereafter also, he again wanted to go back to his native village, which had eventually led to the impugned order being passed. Due to the said reasons, it was found that his track record was of truancy and in order to wriggle out he had also tried to name the wife of respondent No.2, responsible for his problems.

It is settled principle that a probationer has no right to continue in service and the impugned order discharging him is very clear that his future employment would not be hampered. The Apex Court in **Parshotam Lal Dhingra Vs. Union of India 1958 AIR (SC) 36**, held that the right to the post which had not ripened qua the permanent service cannot, on the termination of the employment, be held to be a punishment. It was further held that a person may be found unsuitable on account of misconduct, negligence and inefficiency and therefore, during the probation phase, the employment can be terminated.

The observations made in the discharge order, thus, would not cause any stigma on him. In such circumstances, the order of discharge from service which was passed during his probation period and which was not found satisfactory, does not suffer from any infirmity. If that is so, no case is made out to interfere with the impugned orders and accordingly, the present writ petition is dismissed in limine.

AUGUST 06, 2021

Sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No