

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.221

CWP-18000-2020 (O&M)
Date of decision : 12.1.2021

Sabir Hussain

..... Petitioner

VERSUS

Director General Higher Education, Panchkula and others Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Namit Kumar, Advocate and
Mr. Alankrit Bhardwaj, Advocate, for the petitioner.

Mr. N.S. Behgal, AAG, Haryana.

Mr. Sudhanshu Makkar, Advocate, for respondents No.2 and 3.

Mr. H.S. Gill, Advocate, for respondent No.4.

SUDHIR MITTAL, J. (Oral)

The petitioner was appointed as Assistant Professor in Chemistry vide appointment order dated 14.12.2017 in respondent No.2. According to the terms of his appointment, he was to remain on probation for a period of three years. However, the second respondent discovered that certain documents pertaining to sports activities and NCC activities were bogus and therefore, show-cause-notices dated 31.8.2019 and 6.9.2019 were issued. The said notices were replied vide replies dated 6.9.2019 and 9.9.2019, respectively. Thereafter, the matter was referred to a Committee of Enquiry in accordance with Rule 8 (2) of the Haryana Affiliated College (Security of Service) Rules, 2006 (hereinafter referred to as the '2006 Rules') which submitted its report dated 18.11.2019, finding the petitioner guilty of the aforementioned act. Based thereon, the Governing Body adopted Resolution dated 4.12.2019 to terminate the services of the petitioner and accordingly, termination order of even date i.e. 4.12.2019 (Annexure P-10) was issued. Appeal filed by the petitioner in accordance

with 2006 Rules has also been dismissed vide order dated 12.10.2020 (Annexure P-18).

The sole argument of learned counsel for the petitioner is that the termination of the services of the petitioner was stigmatic in nature and thus, his services could not have been terminated except after conducting a regular enquiry. He relies upon a Division Bench judgment of this Court in **Ashok Kumar Chopra Vs. Union of India and others, 2019 (2) SCT 262,** as well as judgments passed in **Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences, 1999 (1) SCT 861** and **Union of India and others Vs. Mahaveer C. Singhvi, 2010 (3) SCT 578.**

In response, learned counsel for respondents No.2 and 3 submits that the petitioner had secured the appointment on the basis of mis-representation and thus, the show-cause-notices were issued to him. The matter was also enquired into by Committee of Enquiry constituted in accordance with Rule 8(2)(b) of 2006 Rules, even though, the said Rule was not strictly applicable. The Enquiry Committee found the petitioner guilty of submitting bogus certificates and thus, recommended termination of his services. Accordingly, the services of the petitioner have been terminated. Further, the services of a probationer can be terminated at any time during the period of probation, even without giving any reason. He relies upon **Amarjeet Singh Vs. Presiding Officer, Labour Court, Patiala and others, 2012 (2) RSJ 545.**

The relevant part of the termination order dated 4.12.2019 is reproduced below:-

‘You got appointment by presenting extra-curricular activities certificates (NCC & Sports) before the Selection Committee at the time of interview for the post of Asstt. Professor in Chemistry on 25.10.2017. These extra-curricular activities certificates of NCC & Sports were found bogus/not genuine on re-verification from the concerned departments. The Committee constituted under article 8(2)(b) of the Haryana Affiliated College (Security of Service) Rule 2006 submitted its enquiry report dated 18.11.2019 in this regard.’

The reason for termination of services of the petitioner as contained in the aforementioned extract of letter dated 4.12.2019 is submission of bogus certificates of NCC and sports. The same amounts to a serious mis-conduct on the part of an employee and thus, the question arises whether, the services of such an employee can be terminated without conducting a regular enquiry ?

Learned counsel for the petitioner is justified in relying upon judgments in **Ashok Kumar Chopra Vs. Union of India and others, 2019 (2) SCT 262, Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences, 1999 (1) SCT 861 and Union of India and others Vs. Mahaveer C. Singhvi, 2010 (3) SCT 578.** It is by now well settled that the services of a probationer cannot be terminated on account of mis-conduct except after conducting an enquiry in accordance with law and rules. A chargesheet must be issued and the delinquent official is required to file his reply thereto. An Enquiry Officer needs to be appointed thereafter,

who would conduct an enquiry by following the principles of natural justice. Thereafter, another show-cause-notice has to be issued to the delinquent official. The judgment in **Amarjeet Singh's case (supra)** relied upon by learned counsel for respondents No.2 and 3 is not applicable because that was a case of termination simplicitor of a probationer.

Accordingly, the writ petition is allowed and impugned order dated 4.12.2019 (Annexure P-10) as well as appellate order dated 12.10.2020 (Annexure P-18) are set aside. Respondents No.2 and 3 shall however, be at liberty to pass a fresh order, in accordance with law.

(SUDHIR MITTAL)
JUDGE

12.1.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No