

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

Sr. No. 103

CWP-20611-2020 (O&M)
Date of decision : 07.04.2021

Surender Kumar Saini

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Gopal Soni, Advocate, for the petitioner.

Mr. Sanjay Mittal, Addl. AG, Haryana.

SUDHIR MITTAL, J. (Oral)

The petitioner was appointed as Assistant Accountant on contract basis in the National Rural Health Mission on 23.1.2012. The contract was upto 31.3.2012. Thereafter, it was extended from time to time. A complaint dated 14.7.2014 was received against the petitioner that he had embezzled an amount of Rs.93,000/-. An enquiry was conducted based on the complaint and vide order dated 30.6.2015, it was decided not to extend the contract of the petitioner w.e.f. 1.7.2015 and to register a criminal case against him. Aggrieved, the petitioner requested for another enquiry vide his application dated 8.3.2016, whereupon, a fresh enquiry was conducted and a report dated 16.10.2018 was submitted, according to which, the petitioner was found to be guilty only of improper accounting. Thus, a recommendation was made not to proceed further with registration of a criminal case. The recommendation made by the enquiry officer was accepted by the Mission Director vide his communication dated 26.5.2011 and the pending complaint was directed to be filed. Meanwhile, the petitioner had made a request vide his communication dated 21.6.2019

asking for reinstatement, but the same has been denied vide impugned order dated 16.7.2020.

Learned counsel for the petitioner has submitted that upon a fresh enquiry, it has been determined that the petitioner was not guilty of embezzlement. The interest of justice would thus require that he be reinstated.

Learned State counsel submits that the services of the petitioner were never terminated. Upon expiry of his contract on 30.6.2015, the same was not extended w.e.f. 1.7.2015. Even the enquiry report dated 16.10.2018 holds that the petitioner was re-miss in his duties as Accountant and was guilty of following unauthorized accounting procedures. Thus, non extension of the contract of the petitioner is not illegal. If at all, the petitioner was interested, he could have applied for a fresh contract, but he has not done so.

A perusal of the aforementioned facts shows that on account of the complaint dated 14.7.2015, an enquiry was conducted and based thereupon, it was decided not to extend the contract of the petitioner. Whether, contract is to be extended or not is purely in the administrative domain and cannot be interfered with unless the exercise is shown to be mala fide or arbitrary. That is not the case of the petitioner. Claiming reinstatement on the basis of enquiry report dated 16.10.2015 is impermissible in law as the petitioner was not a regular employee. At best, he could have asked for fresh appointment on contract basis for which he needed to apply pursuant to any advertisement that may have been issued. The enquiry report has held that criminal prosecution may be dropped and

the same has been done and thus, there is no illegality in the actions of the respondents.

In view of above, the writ petition has no merit and the same is dismissed.

(SUDHIR MITTAL)
JUDGE

7.4.2021
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No