

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

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CWP No.21832 of 2021
DATE OF DECISION : 28th OCTOBER, 2021

Manusmriti Dabas

.... Petitioner

Versus

Union of India & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Gurmohan Singh Bedi, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

The petitioner has filed this petition under Articles 226/227 of the Constitution of India praying for issuance of writ in the nature of certiorari for setting aside the impugned order dated 27.08.2021 (Annexure P-13) passed by respondent No.5, whereby the services of the petitioner as office assistant with respondent No.2 have been terminated without following the due process of law and principles of natural justice; along with certain other prayers.

As per the pleadings the petitioner was engaged on contractual basis in the first instance on 21.05.2011. Thereafter, the tenure of the petitioner was extended from time to time. Ultimately, the service of the petitioner is stated to have been regularized. Thereafter, as per the pleadings, even the probation of the petitioner is stated to have been cleared. However, as per the averments in the writ petition itself, the performance of the petitioner was not found at par and instead of performing the duties assigned to the petitioner, she started creating

problems in the institute, including resorting to insubordination, barging in the office of faculty member and the Chairman; and misbehaving with other, besides refusing to perform even the basic duties assigned to her. This led to the action against the petitioner.

The counsel for the petitioner has submitted that the termination order passed by the respondents is totally illegal. No show-cause notice was issued before passing the impugned order of termination of her service. It is further submitted that during the enquiry, no opportunity of cross-examining any witness was granted to her. It was a purely one sided enquiry conducted by the respondents. The counsel has further submitted that there are no rules under which the service of the petitioner could have been terminated by the respondent-institute. Hence, the order deserves to be set aside.

Having heard the counsel for the petitioner and having perused the paper book, this court does not find any substance in the argument of the counsel for the petitioner. A perusal of the impugned order itself shows that the respondent-institute had constituted a committee of three members to enquire into the allegations against and into the behaviour of the petitioner. The petitioner was asked to participate in the process of enquiry. As per the impugned order, the petitioner even participated into the said enquiry. Only thereafter the committee recommended the termination of the service of the petitioner. Hence, the competent authority has issued the termination order. Not only that, the respondent-institute had also given an option to the petitioner to file an appeal against the impugned order; by specifying the authority before which such an appeal was to be filed by her, as well as,

the time within which it could have been filed. However, the petitioner has chosen not to file the appeal as per the option granted to her. Instead; she has chosen to rush to this court. Since the requirement of granting opportunity of hearing has been duly complied with by the respondent-institute and this court is not supposed to act as court of appeal, therefore, this court does not find any ground to interfere in the matter.

Although, the counsel for the petitioner has submitted that no rule has been disclosed by the respondent-institute, under which the services of the petitioner could have been terminated by the respondent-institute, however, this argument is totally irrelevant. It would have been different matter if there had been statutory rules regarding a particular procedure to be followed by the institute for termination of the service of the petitioner and that procedure was not followed by the authorities. However, even as per the assertions made by the counsel for the petitioner, there is no rule framed by the institute, so far, for specifying any particular procedure to be followed for termination of the services of any employee. Hence, in the absence of any statutory rules conferring any kind or right upon the petitioner to be subjected to a particular procedure, the only requirement expected from the competent authority is the compliance of the basic principles of natural justice, i.e., grant of reasonable opportunity of being heard. That requirement has duly been fulfilled by the respondent-institute. The counsel for the petitioner has not been able to point out any defect in any prescribed procedure or violation of any rule in arriving at the decision of the termination of service of the petitioner.

Faced with above situation, the counsel for the petitioner has also submitted that the appointment letter of the petitioner stipulates that in case the respondent-institute wanted to terminate the services of the petitioner, then three months' notice was required to be served before terminating the services of the petitioner. However, this argument is to be noted only to be rejected. The said requirement of the notice for termination of the services, is only in case the respondent-institute wanted to dispense with the services of the petitioner in ordinary course; without there being any allegation of misconduct. In case the service of an employee is to be terminated on the ground of some misconduct, after holding some kind of enquiry, then no such requirement of notice is to be read into any rule as such. Moreover, it has also come on record that the petitioner is already facing an FIR qua her behaviour in the respondent-institute. In such a situation the respondent-institute is not even expected to tolerate the petitioner for a period of three months. In that situation even if the action of termination of service of the petitioner was found to be illegal, the petitioner could have been able to claim compensation for salary for three months. This shall not vitiate the order of termination of service as such.

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

28TH OCTOBER, 2021
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No