

Dalbir Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** None for the petitioner.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein inter alia, is for issuance of a writ in the nature of Certiorari seeking to quash impugned order dated 15.10.1999 (Annexure P-4) passed by respondent No.2 whereby his claim for being reinstated on the post of Pharmacist has been rejected. Further a writ in the nature of Mandamus has been sought commanding the respondents to reinstate the petitioner and regularize his services in accordance with policy dated 07.03.1996 (Annexure P-2) and to treat the period from 31.07.1999 to 25.05.2000 when he remained in Police custody as being under deemed suspension.

2. Petition was admitted for hearing on 05.04.2002.

3. When taken up for final adjudication, there is no representation on behalf of the petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 21 years before this Court, either it has been rendered infructuous or even otherwise the petitioner seems to have lost interest in pursuing the same.

4. In any case, from perusal of record/pleadings, it appears that even on merits, claim of the petitioner is not admissible. Reference may in particular be had

to the stand taken in Para-2 of Preliminary Objections of reply filed by respondents No.1 to 3.

5. I am in agreement with the stand taken by the respondents. Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

6. Learned State counsel has canvassed arguments on similar lines as per the defense taken in written statement.

7. The service record of the petitioner is not unblemished. An FIR No.51 dated 17.06.1987 was lodged against the petitioner and others at Police Station, City Narwana under Section 307/ 325/ 324/ 323/ 148/ 144 IPC and Section 27 of Arms Act and the petitioner remained in judicial custody w.e.f. 17.06.1987 to 16.07.1987. The petitioner was working on ad hoc basis w.e.f. 14.01.1985 and his services were terminated vide order dated 30.11.19897 (Annexure R-I). He was acquitted by the Additional District Session Judge (I) Jind on 22.10.1990. Thereafter, the petitioner requested respondent No.2 that he may be taken back in service as he had been acquitted. The case of the petitioner remained under active consideration. In the meantime, the petitioner submitted another application dated 30.09.1991 that he be reinstated on the post of Pharmacist. The case was sent to the Govt. by the Director General Health Services, Haryana vide letter dated 04.06.1992.

8. It is not disputed that petitioner was appointed on ad hoc basis. Thus, the Department was well within its right to dispense with the services of the petitioner without assigning any reason. It is settled law, that an adhoc employee has no legal right on the post.

9. The petitioner once again submitted an application dated 3.7.1992 (Annexure R-II) to the Hon'ble Health Minister Haryana for reappointment as Pharmacist pleading that his case be reconsidered on compassionate grounds and

the petitioner gave an undertaking in his application that he shall not claim any kind of arrear for the period for which he did not serve the Department. Thereafter, the case of the petitioner was re-examined and the Govt. was apprised of the detailed position vide office letter dated 29.9.1992. Vide letter dated 24.11.1992 (Annexure R-III), the Government decided as under:-

The Govt. on reconsideration have decided that Sh.Dalbir Singh (Ex-Pharmacist) may be taken back in service with the stipulation that he will not be given any arrear for the period for which he did not serve the Department. A copy of legally enforceable undertaking to this effect given by him is enclosed. You are therefore accordingly requested to take necessary action in the matter and post him at PHC Dhamtan against a vacant post.

The petitioner also submitted an affidavit dated 15.12.1992 (Annexure R-IV) stating that he shall not claim any kind of arrear for the period for which he did not serve the Department i.e. 30.11.1987 to date of joining as Pharmacist. After that the petitioner was taken back in service with immediate effect vide order No.72D58-1E-III93/54 dated 8.1.1993 (Annexure R-V) with the condition that he will not be given any arrear for the period he did not serve the Department and the petitioner joined his duty on dated 09.01.1993 fore noon. It is pertinent to mention here that another FIR No.157 dated 30.07.1999 under Section 376/342/506 IPC was lodged against the petitioner at Police Post Dhanagarh Distt. Jind and the petitioner was arrested by the police on dated 31.07.1999 and remained in judicial remand upto 13.08.1999, because the petitioner raped a minor girl and after that the petitioner was sent to District Jail Jind by the trial court. It is also mentioned here that the petitioner was still working on adhoc basis and the punishment and appeal rules were not applicable on the petitioner. Therefore, keeping in view of the crime committed by the petitioner, the services of the petitioner were terminated vide order no.72D(52)-1E-III-99/6424-27 dated 15.10.1999 (Annexure R-VI). The criminal case registered against the petitioner is still pending.

10. In view of the aforesaid, no grounds are made out to interfere.
11. Dismissed.

(ARUN MONGA)
JUDGE

May 24, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No