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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10802-2022 (O&M)

Date of decision: July 22, 2022

Pawan Kumar Gupta

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashutosh Gupta, Advocate and
Mr. Mahir Sood, Advocate for the petitioner.

Mr. Vishal Malik, DAG Haryana.

Mr. Sunish Bindlish, Advocate and
Mr. Naman Jain, Advocate for respondent No.3-IHM.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of Certiorari for quashing impugned order dated 17.05.2022 (Annexure P-3) whereby petitioner was divested of his posting as Principal, IHM, Yamunanagar and was instead transferred on an ex cadre post of Special Duty (OSD), IHM, Yamunanagar. Same is alleged to be lacking jurisdiction and in a *mala fide* manner and, therefore, illegal, otiose and arbitrary and against the settled principles of law.

2. Succinct facts first. On 26.10.2015, petitioner was appointed as Principal, IHM, Yamunanagar by respondent No.1. Vide order dated 04.02.2021 (Annexure P-2), petitioner was transferred from IHM, Yamunanagar to IHM, Kurukshetra. One Senior Lecturer in the IHM,

Kurukshetra, namely, Mr. Yogesh Singh was accused of sexual harassment allegedly by one of the students. Petitioner, being the principal of the institute in question was alleged with the delinquency of dereliction in duty leading to the unsavory incident. Hence the impugned order (P/3) removing him from the post of Principal. Smt. Meenakshi Dahiya, HCS, GM, Haryana Tourism Corporation inquired the matter and same was communicated to respondents No.1 and 2. However, subsequently, as it turned out, in an affidavit dated 17.05.2022 (Annexure P-4), said student stated that the complaint is a fake one as she has not filed it against anybody. Regardless, enquiry was not dropped and committee, specially constituted for the purpose, proceeded with the same.

3. During pendency of instant writ proceedings following order was passed by this Court on 27.05.2022:-

“On a Court query, learned counsel for the petitioner submits that petitioner is his father.

In the premise, Dr. Anmol Rattan Sidhu, Senior Advocate who is present in Court, is requested to accept the brief as Amicus Curiae and assist this Court.

I have heard rival contentions of learned counsels for the parties.

On the statement of learned counsel for respondent No.3 that petitioner will not be subjected to any alleged humiliation, as is feared by him, of reporting to his junior and/or working on a non-cadre post of OSD. But, in order to have a fair and impartial enquiry, it is in his own interest that during pendency of the enquiry he is kept off the affairs and management of the institute in question. The aforesaid suggestion made by learned counsel for respondent No.3-IHM seems to be fair.

Learned counsel for respondent No.3-IHM has sought instructions from the competent authority and suggests that pursuant to impugned transfer order dated 17.05.2022 (Annexure P-3), after he gives his joining report, petitioner will be granted extraordinary leave with full pay for two weeks and within the said period, the

contemplated enquiry to be conducted by the Committee constituted vide Annexure R-1 shall be positively concluded. Petitioner is present in person and states that he shall proceed accordingly on leave.

Adjourned to 05.07.2022.

Let the report of Committee be placed on the Court file on or before the next date of hearing.

In the meantime, whatever report will be of the Committee, no further steps will be taken without the leave of the Court.

Copy of the order be given dasti to learned counsels for the parties under the signatures of Bench Secretary.”

4. *Apropos*, a final report dated 27.06.2022 (Annexure B-colly) has been given by the committee constituted to look into the complaint filed against the senior lecturer who at the relevant time worked under the administrative control of the petitioner. Perusal of the said final report reveals that the very complaint filed by the female student, which is the genesis of triggering administrative action qua impugned transfer order vide which the petitioner was transferred on a non-cadre post of O.S.D. Yamunanagar, was treated as pseudonymous and filed, resulting in exoneration of the petitioner herein. Owing to the complaint, petitioner was transferred/divested from the charge of his the then post held by him i.e. of Principal of Institute of Hotel Management, Catering Technology and Applied Nutrition, Kurukshetra.

5. I am of the view that the impugned order being a consequence of the complaint, qua the allegations contained therein the petitioner has since been exonerated, as a necessary consequence thereof and also to restore the honour of the petitioner, the same needs to be set aside. Accordingly, the impugned order dated 17.05.2022 (Annexure P-3) is quashed. In the premise, respondents are directed to allow the petitioner to forthwith resume work on the post from which he was transferred, essentially to await the outcome of

pending enquiry by the committee. It is stated that no permanent incumbent has till date been appointed on the post in question and merely an additional charge has currently given to somebody else, namely, Mr. Atul Shukla. It is however, made clear that the directions of this Court to allow the petitioner to resume his duties on the post in question is only to restore his honour and shall not be construed, in any manner, as a matter or right to continue in the said Institute. Respondents are at liberty to pass any routine administrative orders, which may be required for better administration of the Institute of Hotel Management or any other institution, in case services of the petitioner are required elsewhere. Needless to say, in case, petitioner is aggrieved on passing of the fresh orders, he is at liberty to challenge the same.

6. Pending application, if any, also stand disposed of, accordingly.

7. A copy of this order be given to the learned counsel for the petitioner under the signatures of the Bench Secretary.

(ARUN MONGA)
JUDGE

July 22, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No