

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CWP-24233-2016

Date of Decision :08.08.2022

Sudesh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sachmeet Singh Randhawa, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance of the petitioner is that though, the petitioner was appointed as Hindi Teacher in pursuance to Advertisement No.06/2006 dated 20.07.2006 but, her services have been terminated by the respondents vide impugned order dated 08.11.2016 (Annexure P/9).

Learned Senior counsel appearing for the petitioner submits that though, the petitioner claims that she was fully eligible for appointment as per the qualification mentioned in the advertisement still by wrongly interpreting the rule governing the service to be made applicable in the present case and without giving any opportunity of hearing to the petitioner, her services have been terminated by the respondents, which action of the respondents is contrary to the settled principle of law that nobody should be

condemned unheard and the rules of natural justice should be followed before passing an order which causes prejudice to an employee.

After notice of motion, the respondents have filed reply. The respondents have not placed on record any show cause notice which has been served upon the petitioner before passing the impugned order (Annexure P/9). As per the respondents, services of the petitioner were terminated by giving her one month's notice and in case the petitioner had any grievance in regard to the termination, she could have replied to the said notice within a period of one month and as the petitioner did not raise any grievance with regard to the termination order, no grievance can be raised by the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Though, in the present case, the petitioner is claiming eligibility with regard to her appointment as envisaged in the advertisement but, learned Senior counsel submits that the petitioner will show her eligibility to the concerned authority of the respondents but as the impugned order has been passed in violation of the rules of natural justice, the same is liable to be set aside on this ground alone. It is a settled principle of law settled by the Hon'ble Supreme Court of India in **M/s Daffodils Pharmaceuticals Ltd. and another vs. State of U.P. and another, 2019(12) JT 283** that where any order passed by the authority concerned causes prejudice to an employee, an opportunity of hearing is must and no order causing prejudice to an employee can be passed by an employer unilaterally.

In the present case, it is a conceded position that no show cause notice was issued to the petitioner by the respondents with regard to her

eligibility, especially, when she was already appointed and working for a period of six years.

Keeping in view the said fact, the impugned order passed by the respondents, has been passed without following the rules of natural justice and without giving any opportunity of hearing to the petitioner to present her case, hence, impugned order dated 08.11.2016 (Annexure P/9) passed by the respondents is set aside. However, the respondents are given liberty to pass fresh order in accordance with law after giving opportunity of hearing to the petitioner. It is made clear that petitioner's claim for the benefit for the period she remained out of service will depend upon the fresh order to be passed by the respondents.

The present writ petition stands allowed in above terms.

August 08, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No