

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

CWP-25421-2017 (O&M)

Date of decision: May 23, 2022

Satpal

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sushil Sheoran, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner is before this Court seeking issuance of a writ in the nature of Certiorari to quash order dated 04.05.2017 (Annexure P-3) impugned herein vide which his services were terminated, allegedly being illegal. Further prayer has been made that the respondents be directed to release salary to the petitioner w.e.f. March-2012 till the date of termination of his services.

2. At the time of issuance of notice of motion on 18.12.2017, my learned Brother G.S. Sandhawalia, J. passed the following order:-

“Inter alia submits that petitioner was appointed as Gateman in March, 2012 under respondent No.3 and now, his services have been terminated vide order dated 04.05.2017 (Annexure P-3). It is submitted that even salary has not been paid since March, 2012.

Notice of motion.

Ms.Shruti Jain Goyal, AAG, Haryana accepts notice on behalf of the respondents. Adequate number of copies of the paper-book be supplied to her, during the course of the day.

List on 22.11.2017.

In case the above facts are true that the petitioner has worked with the respondents and he has not been paid his due

salary, respondents No.2 & 3 shall ensure that the payment is brought before this Court, on the next date of hearing.”

3. Pursuant to the above, demand draft dated 07.12.2017, amounting to Rs.1,02,585/- issued in favour of the petitioner was brought to the Court on resumed hearing on 18.12.2017 and the same was handed over to the learned counsel for the petitioner. To be noted that at that time, no objection was raised or at least recorded in the order of this Court. On a Court query, learned counsel for the petitioner submits that same was verbally conveyed and it was in this view, matter was adjourned for filing of reply by the respondents.

4. Subsequently, reply dated 02.02.2018 has been filed, in which following stand has been taken:-

“1. That the answering respondent is non government organization and working in the field of child welfare in the State of Haryana. The answering respondent neither is a board nor is a corporation working under the State of Haryana. Therefore, the answering respondent does not fall under the Article 12 of the Constitution of India and is not a State under the Article 12 of the Constitution of India and the State Council is governed by its own rules and regulations. Hence, no government policy and rules are applicable upon the answering respondent. Thus the answering respondent is independent body and to take its decision independently.

2. That the building where Working Women Hostel Center, Bhiwani was running is the property of Municipal Committee, Bhiwani and in the year 1998 this building was handed over to District Child Welfare Committee, Bhiwani for looking after and to maintain it time to time. The rooms of this building were given on rent to various persons as well as other Govt./Semi Govt. offices. The amount received from aforesaid tenants was utilized for maintenance. In the year 2001, one Smt. Prem Lata was engaged as care taker for this building. Thereafter, on dated 13.08.2007, the petitioner was engaged as Gate Man and one person namely Mani Ram S/o Sh. Sher Singh was engaged as Gardner on DC Rate in the aforesaid Working Women Hostel Center, Bhiwani. The wages/ salary of aforesaid persons was given to them from the income of rent received from the tenants of aforesaid building. There was no government head for making the wages/ salary of aforesaid persons. Later on the condition of

aforesaid building was very decrepit, hence this building was ordered to be vacated with immediate effect. In compliance of order, vide letter memo No.3882-87/MB dated 21.04.2015 (Copy of which is attached herewith as Annexure R-1) issued by the District Magistrate, Bhiwani, the answering respondent has sent a letter memo No.DCCW/B/2015-16/32 dated 24.04.2015 (Copy of which is attached herewith as Annexure R-2) to District Magistrate, Bhiwani to vacate the aforesaid building and to provide police help to appoint duty magistrate. Upon which, the District Magistrate, Bhiwani was appointed to Sh. Virender Gill, Naib Tehsildar, Bhiwani as duty Magistrate, vide letter memo No.4300-4305/MB dated 05.05.2015 (Copy of which is attached herewith as Annexure R-3) and ultimately the aforesaid building was got vacated on dated 08.05.2015 and in this regard a latter memo No.DCCW/B/15-16/46 dated 08.05.2015 (Copy of which is attached herewith as Annexure R-4) by the Duty Magistrate, Bhiwani and after vacated of the aforesaid building there is no need to keep the petitioner as Gate Man, Mani Ram as Gardner and Smt. Prem Lata as Care Taker of the said building. Despite of it, if any person residing or working in the aforesaid building at his/ her own sweet will, then the answering respondent is not responsible for any illegal act and conduct, hence question does not arise to pay the wages/ salary to the petitioner after vacated the building i.e.08.05.2015. Later on dated 19.04.2017, D.C. Bhiwani has made a surprise visit and found that some persons were residing illegally in the aforesaid building and hence verbally order for termination of the petitioner as well as Smt. Prem Lata Care Taker. Hence, when the purpose for which the aforesaid persons were kept/ engaged has become abolished and no income has been received for making the wages/ salary of aforesaid person, then question does not arise to keep them more for the said purpose/ work further. Hence, the engagement of the petitioner is purely on the basis of availability of work and he had joined the service on these terms and conditions. Hence, he has no right to challenge the order dated 04.05.2017, vide which the services of the petitioner has been terminated on the basis of order dated 20.04.2017 passed by the Deputy Commissioner, Bhiwani. Thereafter, the petitioner does not remain in service of the answering respondent.”

5. *Apropos* above, neither any additional affidavit nor any replication has been filed clarifying any further the stand of the petitioner. In view of the aforesaid, factual assertion contained therein remains uncontroverted.

6. Even otherwise, concededly, petitioner was appointed on contractual basis and has very limited rights to be exercised by him in terms of his appointment. Furthermore, neither any appointment letter nor any service rules applicable to him have been either relied upon in course of arguments or placed on record.

7. In view of the aforesaid, no interference is called for.

8. Dismissed.

(ARUN MONGA)
JUDGE

May 23, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No