

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(220)

CWP No. 9716 of 2017

Date of Decision : 05.08.2022

Parveen Kumar

...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. Karamveer Singh Banyana, Advocate and
Mr. Sachmeet Singh Randhawa, Advocate for the petitioner.

Mr. Kiran Pal Singh, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

In the present petition, the grievance of the petitioner is that he was not being allowed to re-join to the post of Peon on which the petitioner was working with the Department of Education, Govt. of Haryana, which act on the part of the respondents is not in accordance with law.

As per the facts mentioned in the present petition, the petitioner was appointed as Peon in Municipal Corporation, Panipat on 17.10.1994. Petitioner continued working as such when, keeping in view abolition of octroi within the State of Haryana, the petitioner was declared surplus and was relieved on the basis of 'Last-cum-First Go'. After the relieving of the petitioner by the Municipal Corporation, Panipat, the respondent-State of Haryana issued a policy for adjusting the surplus staff in the other

department/Boards/Corporation of the Govt. of Haryana and under the said Policy, the petitioner was adjusted as Peon in the Department of Education on 21.01.2000 on which post, the petitioner joined.

While the petitioner was working in the Department of Education, the respondent-Municipal Corporation, Panipat invited the options from the surplus staff to join back and as the petitioner was intending to join back the Municipal Corporation, Panipat, he filed an application to the said effect. As the petitioner was not being allowed the benefit by the Municipal Corporation, Panipat, the petitioner approached this Court with a prayer that the Municipal Corporation, Panipat be directed to absorb the petitioner in view of the option given by him by filing CWP No. 13196 of 2015 titled as ***Parveen Kumar and another Vs. State of Haryana and others.*** The said writ petition was disposed of by this Court to decide the legal notice given by the petitioner dated 23.11.2014 (Annexure P-5), which legal notice was to be decided by the Municipal Corporation, Panipat.

The petitioner made a request in June, 2016 to the Education Department to relieve him so as to allow him join Municipal Corporation, Panipat, which request was pending and in the meantime, the Municipal Corporation, Panipat rejected the request of the petitioner vide order dated 11.07.2016 to allow him to join on the ground that petitioner opted late for joining the Municipal Corporation, Panipat.

Keeping in view the request of the petitioner for relieving him submitted in June, 2016 to join Municipal Corporation, Panipat, he was relieved from service in August, 2016 by the Department of Education,

which action of the respondents is under challenge in the present petition.

After notice of motion, the respondents have filed the reply stating that after the petitioner himself had made a request in June 2016 to relieve him so as to enable him to join Municipal Corporation, Panipat, no request was received from him so as to withdraw the said request till the date he was relieved, to the effect that he was not interested in getting himself relieved in pursuance to his request given in June, 2016. Since keeping in view the request of the petitioner himself, he was relieved from service, the same cannot be challenged by the petitioner in the present petition and, therefore, the claim of the petitioner may kindly be declined.

I have heard learned senior counsel for the petitioner as well as learned counsel for the respondents and have gone through the record with their able assistance.

In the present case, no one else other than the petitioner is to blame for the controversy. The only question is whether, a Class-IV employee, who is 40 years of age, should be left in lurch in a manner that he is neither employed by the Municipal Corporation, Panipat nor is being allowed to join by the Department of Education, Haryana. Once, the petitioner did not get absorption in Municipal Corporation, Panipat, it was his duty to inform the respondent-Department of Education, Haryana that he is no longer interested in getting himself relieved but nothing has come on record so far that any such request was made by the petitioner immediately after the date, he was relieved by the Department of Education. The first representation, which the petitioner had made after he was relieved by the Department of Education, is of January, 2017 which is much after the date,

he was relieved. Probably, by the said date i.e. January, 2017, the petitioner must have lost all hopes of joining Municipal Corporation, Panipat and that is why he turned back towards the Department of Education so as to allow him to re-join the service.

Though, no fault can be found with regard to the relieving of the petitioner by the Department of Education but once, the petitioner was working on regular basis and had rendered approximately 16 years of service and he was not successful in getting himself adjusted in Municipal Corporation, Panipat, which was the actual reason of getting himself relieved from the Department of Education, a sympathetic view should have been taken by the Department of Education so that the petitioner could survive in these hard times as it is very difficult to get a job at this age of life though, the loosing of the job by the petitioner is of his own doing.

The petitioner was already working on regular basis with the Department of Education, after his adjustment in January, 2000 and had worked for 16 years and had become entitled for various reliefs such as pension also, it will be in the interest of justice that the petitioner's prayer for allowing him to continue in the Department of Education is allowed as by implication of the said order of relieving the petitioner has not only lost the job but also the benefit of 16 years of service. The petitioner is a Class-IV employee and in the absence of right guidance has not only lost the job but even the pensionary benefits, therefore, a compassionate view needs to be taken so as to mitigate the hardship being faced by a Class-IV employee and his family.

The learned senior counsel appearing on behalf of the petitioner

submits that the petitioner will not claim any arrears till the date he joins back the Education Department but he be given continuity of service with notional fixation. That offer is genuine and, therefore, needs to be accepted.

The foregoing of any arrears by the petitioner in the light of the facts of the present case works rightly to settle the equities between the parties to the present petition.

Keeping in view the facts and circumstances of this case as the petitioner was only relieved so as to enable him to join the Municipal Corporation, Panipat, which joining was not accepted by the Municipal Corporation, Panipat, the respondent-Education Department is directed to allow the petitioner to re-join the service. It is made clear that as undertaken by learned senior counsel appearing on behalf of the petitioner, though the petitioner will be given continuity of service but no arrears of salary will be paid to him upto the date of joining. Let the order be complied within a period of two months of the receipt of copy of this order.

Writ petition is allowed in above terms.

August 05, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No