

2023:PHHC:061266

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

Date of decision : 28.04.2023

Kamaldeep Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gaurav Chopra, Senior Advocate with
Mr. Ranjit Singh Kalra, Advocate
for the applicant/respondent No.2-PUNSUP.

Mr. Ravneet Singh Bains, Advocate
for the non-applicant/petitioner.

Ms. Shivani Sharma, DAG, Punjab.

PANKAJ JAIN, J. (Oral)

Counsel for the petitioner is *ad idem* that the similar review applications came up for consideration in RA-CW-33-2022 in CWP-12367-2017, wherein the following order was passed:-

Present lis relates to selection conducted by respondent No.2-PUNSUP which was later on discovered to be tainted. The Government constituted a Committee of Four Members to find out the factum of fraud in the recruitment process. As per the opinion of the Committee fresh recruitment process has to be undertaken. However the highest quarters of the executive i.e. the Chief Minister of the State ordered that :-

“It shall be inappropriate to continue with the services of the candidates whose selection has been found to be vitiated by the committee headed by Secretary vigilance. Accordingly the services of such candidates may be dispensed with without further delay after following “due legal process.”

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The matter travelled to this Court in **CWP No.13834 of 2017** titled as **Robin Goyal vs. State of Punjab and others**, wherein the following order was passed :-

“Rule. Respondent-State of Punjab waives service. Heard forthwith with the consent of counsel for the rival parties.

In the interest of justice, the main petition is taken up for final disposal looking to the nature of controversy that is involved in the petition. It appears that large number of candidates were selected and appointed in the year 2015. It appears that thereafter the Government constituted a committee of four members to find out the alleged fraud in the matter of recruitment process of those persons. The committee came to the conclusion that fresh recruitment process will have to be undertaken and in so far as the employment of the appointees, including the petitioner is concerned, the Hon'ble Chief Minister of the State made an order (Annexure P-7) by way of office note which reads thus: -

“It shall be inappropriate to continue with the services of the candidates whose selection has been found to be vitiated by the committee headed by Secretary vigilance. Accordingly the services of such candidates may be dispensed with without further delay after following “due legal process.”

Since the petitioner and other persons were appointed in the year 2015, there may be some semblance of right in them to have the principles of natural justice followed by the State machinery before dispensing with their services. That is why, Hon'ble the Chief Minister has directed to follow the due legal process. Since the recommendation of the committee was to undertake fresh recruitment process and obviously to dispense with the services of the persons already appointed, the Department concerned ought to

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have issued show cause notices to all the appointees. However, the petitioner and others have filed writ petitions in this Court and have obtained interim orders.

In my opinion, to cut short the controversy, the department concerned ought to have followed the order dated 9.5.2017 (Annexure P-7) made by Hon'ble the Chief Minister to follow the due legal process. If the department does not follow the due legal process, that is bound to lead to multiplicity of litigation. In that view of the matter, the concerned department (PUNSUP) is directed to follow the orders issued by the Hon'ble Chief Minister on 9.5.2017 by which the department was asked to follow due legal process, means to issue show cause notice to all the candidates including the petitioner and thereafter obtain their replies and thereafter to take decision, if necessary after hearing them and upon perusing the entire record. The concerned department is therefore directed to take up the For Subsequent orders matter; issue show cause notices with necessary documents to all the appointees within a period of one month from today and call the explanation from such appointees within 15 days therefrom and thereafter take a decision within one month and communicate the same to all the appointees. In any case, the entire process shall be completed within three months from today and decision taken shall be placed before this Court for further orders. All the petitions shall be listed before this Court along with the decision taken.

In the meanwhile, in so far as the petitioner is concerned, there shall be status quo as to his services. Rule is partly made absolute.

No costs”.

In the another writ petition which came up for consideration before Coordinate Bench in a Bunch of petitions with **Kabul Singh and others vs. State of Punjab and another – CWP No.2099**

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of 2017 being the lead case, Co-ordinate Bench of this Court followed the order passed in **CWP No.13834 of 2017** *ibid* and disposed off the said writ petition in the same terms. Meaning thereby the procedure of the PUNSUP in dismissing the services of the candidates who got appointment under the alleged tainted process was found to be unfair and was replaced by procedure spelled out by this Court reading principles of nature justice into the same and till the final decision was taken by the employer, status quo viz-a-viz services of the candidates was ordered to be maintained.

Present applications seeking '**review of the order**' have been filed wherein it has been claimed that the procedure as directed by this Court stands complied with. PUNSUP has come to the final conclusion, the employees/accused named in the report filed under Section 173(8) Cr.P.C their services are being dispensed with. However, the orders though passed are kept in abeyance owing to status quo orders passed by this Court.

After hearing counsel for the parties, this Court is of the considered opinion that the *status quo* was ordered to be maintained only till the time final opinion is formulated by the PUNSUP in accordance with the procedure as formulated by this Court. The intention was not that such order shall operate in perpetuity. Once a final call has been taken that too after complying with the procedure, the order cannot be read to defeat the right of the employer and to force him to continue with the alleged tainted employees. Thus, the order is modified to the extent that after having followed the

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procedure the employer is at liberty to give effect to its orders in accordance with law.

However, it is made clear that no observation made hereinabove shall come in the way of the employees who shall have their rights to pursue appropriate remedy in accordance with law qua such orders passed against them and nothing observed shall be construed as expression on merits of the case.

Ordered accordingly.

Consequently, all the review applications are allowed.

Pending Application, if any, shall also stands disposed off accordingly.”

3. The present application would also be covered by the same order and is hereby allowed in the same terms.
4. Since the review application has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

28.04.2023
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No