

384-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1890-1997 (O&M)

Date of Decision: 04.10.2023

BINDU GARG

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.**

Present Mr. V.K. Shukla, Advocate,
for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. The petitioner has preferred this Writ Petition for quashing of order dated 24.01.1997 (Annexure P-10) whereby the petitioner's services were terminated.

2. The brief facts which need to be noticed are that the petitioner was appointed as a Clerk on regular basis against a vacant post in the Office of the Assistant Excise and Taxation Commissioner, Faridkot on 30.03.1996. She belonged to handicapped category and was performing her duties since 30.03.1996. However on 18.07.1986, a show cause notice was served upon her proposing termination of her services w.e.f. 01.08.1996. She has filed the reply to the said show cause notice pointing out that the petitioner's appointment was made by way of a regular mode and there was no occasion to terminate or cancel her appointment. Thereafter, considering her reply, show cause notice was withdrawn on 19.09.1996.

3. Learned counsel for the petitioner submits that one Lakhwinder Singh has filed a Writ Petition bearing No. CWP-7285-1996 wherein initially the petitioner in this Writ Petition was not made a party, but later on she was arrayed as respondent No.3 in the said Writ Petition and observations were made by the Court without giving her any opportunity of hearing to the effect that her appointment, *prima facie*, was contrary to the Article 14 of the Constitution of India. The Court also observed that the petitioner therein (Lakhwinder Singh) had been wrongfully appointed and taking a cue from the said order passed by the Court, services of the petitioner (respondent No.3 therein) were terminated without giving her any opportunity of hearing.

4. This Court, at the time of issuing notice of motion, has stayed the operation of the impugned order dated 07.02.1997 and the said interim order has continued till date. The petitioner, therefore, continued to perform her duties as informed by the learned counsel for the petitioner and she has further been promoted to the post of Excise and Taxation Inspector in the year 2012.

5. The respondents have filed their reply and have relied on order dated 20.05.1996 passed by this Court in CWP-7285-1996 which was an *ex-parte* order in which notices were issued to the petitioner (respondent No.3 therein) and the official respondents had terminated the services of the petitioner.

6. Learned State counsel submits that in terms of the initial appointment, petitioner was given one month's salary, in lieu of notice at the time of issuing of termination order, which the petitioner had refused.

7. I have carefully gone through the order passed by this Court in CWP-7285-1996 and find that the petitioner therein (Lakhwinder Singh) had come before the Court challenging the conditions incorporated in the appointment order accorded to respondent No. 3 (petitioner herein) on the post of Clerk on the ground of discrimination. The Court did not accept the prayer of the petitioner therein and dismissed the said Writ Petition to the extent that the petitioner's claim of continuity in service with regard to the respondent No.3 (petitioner herein). The Court observed that *prima facie*, the appointment of the petitioner herein was contrary to Articles 14 and 16 of the Constitution of India. The Writ Petition has subsequently been dismissed.

8. Thus, any observations made at the interregnum stage had been merged with the final order, and therefore, the said observations cannot be examined or taken to be a judgment or observation of the Court. Since the said Writ Petition has been dismissed, any action taken, if any, on the basis of the interim order passed by this Court, would have no effect after the Writ Petition is dismissed and the said actions taken have to be restored in view of the principles as laid down under Section 144 of the CPC.

9. In view of the aforesaid facts, the order of terminating the services of the petitioner cannot be allowed to stand after the dismissal of the said Writ Petition and the petitioner would be allowed to continue. Since the interim order had already been passed in favour of the petitioner, staying the operation of the termination order and the petitioner has continued in services, the present Writ Petition is **allowed** and the interim

order dated 20.05.1995 by this Court is made absolute. No further orders are required to be passed.

10. All pending applications in this Writ Petition shall stand disposed of accordingly.

October 4, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes/No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>