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2023:PHHC:166599

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

CWP-11548-2019

DECIDED ON: 14.09.2023

RAJESH KUMAR AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Jasbir Mor, Advocate,
for the petitioners.

Ms.Shruti Jain Goyal, DAG, Haryana.

Mr.Surinder Garg, Advocate, for respondent No.3.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Articles 226/227 of the Constitution of India has been invoked by the petitioners for issuance of a writ in the nature of certiorari quashing the letter dated 27.02.2019 and order dated 01.04.2019 through which the petitioners' services have been terminated and they have been relieved from their services.

2. Facts, in brief, are that petitioners were appointed on contractual basis as Laboratory Technicians on 25.02.2000 and 07.12.2005 in Blood Bank, Civil Hospital, Kaithal and in ICTC in Civil Hospital, Kaithal respectively under the National AIDS Control Organization. Their contract was upto 31.03.2017. Some irregularities regarding blood units shown to be bogus were found in the Civil Hospital, Kaithal and consequently, the Civil Surgeon, Kaithal through letter dated 04.01.2017

ordered an inquiry into the matter by constituting a inquiry committee of three senior doctors. After inquiring into the matter, the said inquiry committee submitted its interim report dated 11.03.2017 showing the petitioner's involvement in the irregularities found in the blood bank of the Civil Hospital Kaithal. On the basis of such report, the Civil Surgeon, Kaithal, ordered transfer of the petitioners from Civil Hospital, Kaithal to PHC, Pai and PHC, Kharka. Since the petitioners' contract was not renewed, therefore, their services were discontinued through letter dated 06.04.2017. The inquiry committee filed its detailed report dated 30.05.2017 wherein the petitioners were found guilty. The Civil Surgeon, Kaithal, through report dated 09.08.2017 agreed to the findings returned by the inquiry committee. The Civil Surgeon, vide order dated 30.01.2019, re-appointed the petitioners and posted them at CHC, Pundri and CHC, Guhla but without following the procedure and without getting the permission of the competent authority, resulting in calling his explanation by respondent No.3 through letter dated 27.02.2019 as a consequence of which the Civil Surgeon through order dated 01.04.2019 discontinued the petitioner's services. The afore letter dated 27.02.2019 and order dated 01.04.2019 are the subject matter of challenge in the present proceedings.

3. Learned counsel for the petitioners contends that the petitioners' services have been discontinued without following the principles of natural justice as while doing so, they were not granted any opportunity of hearing. It is further submitted that the petitioners' have been rightly reinstated again by the Civil Surgeon. It is further submitted that the petitioners be allowed to be taken back in service and that the

official-respondents be directed to release their salaries for the period actually worked by them.

4. Learned State counsel as also respondent No.3 jointly submit that the petitioners' services have been discontinued by the official-respondents by following the principles of natural justice and they were granted adequate opportunities to defend their case and therefore, no leniency be shown in the petitioners' case.

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

6. The petitioners were appointed on contractual basis as Laboratory Technicians in Civil Hospital, Kaithal and in ICTC in Civil Hospital, Kaithal respectively under the National AIDS Control Organization. Their contract was upto 31.03.2017. On finding some irregularities qua blood units shown to be bogus in the Civil Hospital, Kaithal the Civil Surgeon, Kaithal ordered an inquiry into the matter by constituting a committee and the committee, after inquiring the matter, submitted its first report dated 11.03.2017 showing the petitioner's involvement in the afore irregularities. On the basis of such report, the Civil Surgeon, Kaithal, ordered transfer of the petitioners but since the petitioners' contract was not renewed, their services were discontinued. The inquiry committee filed its final report dated 30.05.2017 wherein the petitioners were found guilty. The Civil Surgeon, Kaithal, through report dated 09.08.2017 agreed to the findings returned by the inquiry committee and vide order dated 30.01.2019 re-appointed the petitioners but without following the procedure and without getting the permission of the

competent authority, resulting in issuing an explanation to him by respondent No.3 through letter dated 27.02.2019 as a consequence of which the Civil Surgeon through order dated 01.04.2019 discontinued the petitioner's services.

7. The petitioners' have been granted adequate opportunities by the inquiry committee to defend their position as a consequence of which the petitioners filed their replies but such replies could not satisfy the inquiry committee as the petitioners were unable to clarify their stand.

8. It is not disputed that vide order dated 30.01.2019 the Civil Surgeon had reappointed/reinstated the petitioners but while doing so, he had not sought the prior approval of the official-respondents. The official respondents' sought explanation from the Civil Surgeon after which the petitioners' services have been rightly terminated.

9. In view of what has been recorded above, this Court finds that the petitioners' services have rightly been discontinued/dismissed by the official respondents.

10. In view of the discussions made hereinabove, the present petition stands dismissed being devoid of any merits with no order as to costs.

11. However, the official respondents are directed to release the salary for the period actually worked by the petitioners till the span of their service, within a period of two months.

14.09.2023

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Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

(SANDEEP MOUDGIL)
JUDGE