

2023:PHHC:128607

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

**CM-15138-CWP-2023 &
CM-13935-CWP-2023 in/and
CWP-11806-2015 (O&M)
Date of Decision: 15.09.2023**

Punam Malik

..... Petitioner

Versus

U.T. Administration and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Rajiv Atma Ram, Senior Advocate assisted by
Mr. R.Kartikeya, Advocate and
Mr. Kartik Patial, Advocate
for the applicant/petitioner.

Mr. Mohinder S.Nain, Additional Standing Counsel,
U.T., Chandigarh for respondents No.1 to 3.

HARSH BUNGER J. (ORAL)

CM-15138-CWP-2023:

Present application is filed for placing on record additional
affidavit of the applicant/petitioner.

For the reasons mentioned in the application, the additional
affidavit of applicant/petitioner is taken on record, subject to all just
exceptions.

Application is accordingly disposed of.

CM-13935-CWP-2023 in/and CWP-11806-2015:

1. Petitioner (Punam Malik) has filed the instant petition under Articles 226/227 of the Constitution of India seeking quashing of order bearing Endorsement No.DC/AMB/2015/498 dated 22.05.2015 (Annexure P-23) passed by the Secretary, State Agricultural Marketing Board, U.T., Chandigarh, whereby services of the petitioner were terminated. A further prayer has been made for quashing of order bearing Memo No.IRCS/UT/2015/195 dated 25.05.2015 (Annexure P-25), whereby it has been intimated that petitioner has lost her *lien* in the parent organization, i.e. Red Cross Society. It has also been prayed that the respondents be directed to permit the joining of petitioner to the post of Senior Assistant in the State Agricultural Marketing Board or in the Red Cross Society, with all the consequential benefits arising therefrom, such as continuity of service, arrears of pay etc.

2. Vide order dated 29.05.2015, notice was issued in this case and operation of order dated 22.05.2015 (Annexure P-23) was stayed.

3. A perusal of file reveals that on 13.09.2018, the following order was passed in this case:

“ *Pleadings are complete.*

The case is adjourned to 26.10.2018 for arguments.

In the meanwhile, there will be a tripartite meeting between the UT Administration, the State Agricultural Marketing Board & Indian Red Cross Society to chart/devise the way forward to accommodate the petitioner in the State Agricultural Marketing Board, especially, in view of the stand of the Indian Red Cross Society that her lien has snapped, there being no rules to take her back in the Indian Red Cross

Society in view of the events leading to the passing of the memo No. RCS/2014/970 dated 14.11.2014 (Annex. P-11 at page 58 of the paper book). The result of the exercise be placed before the Court on the next date of hearing.”

4. In compliance of the aforesaid order dated 13.09.2018, it is stated that a meeting was held under the Chairmanship of Finance Secretary-cum-Secretary Agriculture, Chandigarh Administration on 27.09.2018 and subsequently an order dated 23.10.2018 was passed, the operative part of which reads as under:-

“Taking into consideration the prayer of Ms. Poonam Malik made in her CWP No.11806 of 2015 in the Hon'ble Punjab and Haryana High Court, Chandigarh for allowing her to join in the State Agriculture Marketing Board or in the Red Cross Society to the post of Senior Assistant with all consequential benefits flowing therefrom such as continuity of service, arrears of pay etc., it has been unanimously decided in the above meeting that Ms. Punam Malik be allowed to join her duties on the post of Senior Assistant in the Indian Red Cross Society, Chandigarh which is still lying vacant on regular basis. All consequential benefits like continuity in service, seniority arrears etc. will be granted by the Indian Red Cross Society, U.T. Chandigarh.

Now, therefore, I request Ms. Punam Malik to join the duty, in the office of the Indian Red Cross Society, U.T. Chandigarh as Senior Assistant immediately.”

5. It appears that the above extracted order dated 23.10.2018 was brought to the notice of this Court and on 08.03.2019, the following order came to be passed in this case:-

“ Mr. Pankaj Jain, learned Senior Standing Counsel, has produced a photocopy of the Minutes of the Meeting held on 27.09.2018 under the Chairmanship of the Finance Secretary

-cum- Secretary Agriculture, Chandigarh Administration and the accompanying order dated 23.10.2018, which clears the way for return of the petitioner to the Red Cross Society with all consequential benefits. The Indian Red Cross Society, UT Chandigarh was the parent cadre of the petitioner. She had secured an appointment in the State Agricultural Marketing Board, UT, Chandigarh, which is a statutory body of the Government. In the Minutes, it has been recorded that the transfer of the petitioner to the Board is an unlawful backdoor entry and made contrary to the clearly defined rules.

Without making any comment on the transfer of the petitioner to the Board, I would notice that in the Minutes of the Tripartite Meeting, it has been unanimously decided to allow the petitioner to join her duties to the post of Senior Assistant in the Indian Red Cross Society, Chandigarh, which is still lying vacant on regular basis, with all consequential benefits, such as, continuity of service, seniority, arrears etc. The accompanying order carries out the mandate of the unanimous decision and the petitioner has been requested to join her duties. The photocopies of the Minutes of the Meeting and the Order produced by Mr. Jain are ordered to be retained in the Tablaq.

On the other hand, Mr. Kartikeya prays for and is granted short accommodation so that he can go through these documents and make his submissions.

List again on 18.03.2019.

To be taken up at 2.00 PM.

Meanwhile, Mr. Jain to place on record both the documents by way of appropriate application with advance copy to opposite side. UT Administration to also produce the original file leading upto the transfer and appointment of the petitioner in the Board. The record as prayed for in CM No.7710 of 2017 be also produced on the date fixed.”

6. Now, the respondent-Union Territory, Chandigarh has filed application (CM-13935-CWP-2023) seeking disposal of the main case

(CWP-11806-2015) on the plea that the alternate relief sought in this writ petition has since been granted to petitioner vide order dated 23.10.2018.

7. On the other hand, learned senior counsel appearing for the petitioner submits that petitioner has more prospects of promotion and financial upgradations in the State Agriculture Marketing Board, Union Territory, Chandigarh than the Indian Red Cross Society, Union Territory, Chandigarh; however, it is not disputed that the parent Department of petitioner is “Indian Red Cross Society, Union Territory, Chandigarh”.

8. At this stage, Mr. Atma Ram, learned senior counsel representing the petitioner submits that petitioner would have no objection in joining the Indian Red Cross Society, Union Territory, Chandigarh. However, it is prayed that the authority concerned may be directed to release all the consequential benefits to petitioner.

9. I have considered the aforesaid submissions of Mr. Atma Ram, senior counsel representing the petitioner, however, it is observed that in order dated 23.10.2018, it is clearly stated that all consequential benefits like continuity in service, seniority, arrears etc. will be granted to petitioner by the Indian Red Cross Society, Union Territory, Chandigarh.

10. Keeping in view the aforesaid circumstances as well as the submissions made by learned senior counsel for the petitioner and learned counsel for respondents No.1 to 3, the instant petition is disposed of with a direction that the petitioner be allowed to join Indian Red Cross Society, Union Territory, Chandigarh and all consequential benefits (as may be admissible to her) be released to her by the concerned/competent authority within a period of eight weeks from the date of receipt of the certified copy

of this order. In case, the petitioner feels that any benefit (as may be admissible to her) has not been granted to her then she would be at liberty to approach the concerned authority with such a prayer, which shall be considered by the concerned/competent authority, in accordance with law.

11. The present writ petition is disposed of in the aforesaid terms.

12. All pending application(s), if any, shall also stand closed.

15.09.2023

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No