

CWP-16096-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110+225)

CWP-16096-2018 (O&M)

DATE OF DECISION:- 27.03.2023

POONAM

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.S.Sahu, Advocate
for the applicant-petitioner.

Mr. Harish Nain, AAG, Haryana
for the respondents.

SUVIR SEHGAL, J. (ORAL)

CM-5093-CWP-2023

Application is allowed as prayed for.

Replication is taken on record.

Main case

Challenge in the instant writ petition is to order dated 22.08.2016, Annexure P-3, whereby services of the petitioner have been terminated by respondent No.4, order dated 04.05.2018, Annexure P-5, whereby appeal, preferred by the petitioner, has been dismissed by respondent No.3 and order dated 10.05.2018, Annexure P-6, passed by respondent No.4. A further prayer has been made for restraining the

respondents from filling up the vacancy during the pendency of the petition.

Facts as well as the dispute lies in a very narrow compass. Pursuant to an advertisement issued by respondent No.4, petitioner was appointed as an Anganwadi worker vide letter dated 02.09.1997, Annexure P-1. She continued serving for almost twenty years, however, by order dated 22.08.2016, Annexure P-3, she was terminated from service on the ground that she was found absent from duty. Petitioner challenged the order by filing an appeal before respondent No.3, which was dismissed vide order dated 04.05.2018, Annexure P-5. Thereafter, another order dated 10.05.2018, Annexure P-6, was passed by respondent No.4, dismissing the petitioner from service with immediate effect.

Upon notice, writ petition has been contested by the respondents by filing separate written statements, wherein it has been submitted that the petitioner was found absent during checking on numerous occasions and record maintained by her was incomplete. Notices were issued to her, but she did not respond and she was terminated from service, vide order Annexure P-3. By order dated 24.03.2017, Annexure R-4, the Appellate Authority ordered the reinstatement of the petitioner for a period of three months with an observation that her work and conduct during this period be kept under watch. She was reinstated in service, but there was no improvement in her performance and was again found absent. Vide memo dated 03.07.2017, respondent No.3 was informed that her work was not upto mark. However, the Appellate Authority granted one more opportunity to the petitioner to reform herself. Petitioner continued working for a period

of nine months, yet her work and conduct remained unsatisfactory. Vide memo dated 13.4.2018, respondent No.4 again approached respondent No.3 informing him about the petitioner's conduct, which resulted in the passing of the impugned order, Annexure P-5. Petitioner was informed about the dismissal of the appeal vide order Annexure P-6.

By placing reliance upon the resolution, Annexure P-2, passed by the Gram Panchayat, counsel for the petitioner has argued that the Panchayat has certified that she has been working sincerely and efficiently. Reference is also being made by him upon the attendance register, Annexure P-4, to contend that the ground for termination of service of the petitioner is not borne out from the record. It is his argument that the petitioner has been thrown out on the allegation of misconduct without holding any departmental enquiry as respondent No.4 was inimical to her. Reliance has been placed by him upon a judgment of the Division Bench of this Court in *Union Territory of Chandigarh and others vs Central Administrative Tribunal, Chandigarh Bench and others, 2011 (2) RSJ 2019.*

Countering his argument, State counsel urges that as the work conduct and performance of the petitioner was dis-satisfactory, she has been removed in terms of the contract of engagement, Annexure P-1. While denying the allegations of malafide, State counsel submits that there was a dereliction of duty on the part of the petitioner and she has been terminated after providing her with an appropriate opportunity to show cause as well as hearing.

I have heard counsel for the parties and considered their respective submissions.

In the response filed by the respondents, a categoric stand has been taken that the petitioner is a habitual absentee and did not discharge her duties efficaciously. Despite the fact that several opportunities were given to her to make amends for her behaviour, she did not reform herself, which culminated in the passing of the termination orders. The Division Bench judgment relied upon by the counsel for the petitioner will not come to her aid as the petitioner was afforded opportunities to explain her conduct, but she chose not to avail of the same. Resolution dated 21.05.2018, Annexure P-2, passed by the Gram Panchayat does not advance the case of the petitioner as it has been passed post the termination. Allegations of mala fide against respondent No.5, who has not been impleaded by name, are vague and petitioner could not substantiate them. The Attendance Register, Annexure P-4, produced by the petitioner does not inspire any confidence as it is not counter-signed by any official or by the competent authority.

Considering the repetitive acts of delinquency, obstinate and incorrigible conduct of the petitioner, this Court is of the opinion that the termination of the petitioner from service is justified and the impugned orders do not call for any interference in the exercise of writ jurisdiction.

Writ petition, being without any merit, is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

27.03.2023
Kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No