IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19526-2017
Date of decision: 09.02.2023

Niraj Kumar Singh

...Petitioner

Versus

State of Haryana and others .....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Ms. Veena Hooda, Advocate,
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The present petition has been filed to quash the adverse remarks recorded in the Annual Confidential Report (ACR) of the petitioner for the year 2010-2011 (Annexure P-2) and to further quash the order dated 05.02.2014 (Annexuxre P-8A) whereby representation of the petitioner against the adverse remarks recorded in his ACR, was rejected.

Learned counsel for the petitioner contends that on 12.04.1999, the petitioner was initially appointed as a Lecturer on contract basis in the Technical Education Department, Haryana; that on 17.12.2004, services of the petitioner were regularized on the aforesaid post; that thereafter, the petitioner was posted at Ceramic Engineering Department and that the petitioner had been performing his duties with utmost sincerity and devotion. Learned counsel further contends that the wife of the petitioner was working as an Assistant Manager in the Institute of Liver & Biliary Sciences, New Delhi, which is a funded institute, and that owing to their postings at different places, the wife of the petitioner was actually residing separately at Delhi whereas the petitioner was residing at Jhajjar.

Learned counsel for the petitioner further contends that in the month of March, 2010, the petitioner had claimed one month's salary in lieu of LTC for the block year 2008-2011; that however on 13.08.2010, the wife of the petitioner claimed LTC, and that the wife of the petitioner had not been aware of the fact that the petitioner had already claimed one month's salary in lieu of LTC. Learned counsel further contends that when the wife of the petitioner came to know about the LTC having already been claimed by the petitioner, she had immediately deposited a sum of Rs.36,500/- with the office of the Institute of Liver & Biliary Sciences, New Delhi and even the Director General, Technical Education Department, Haryana, vide letter dated 22.04.2013 (Anexure P-6), conveyed that no financial loss had been caused to the Department and accordingly, the Department, after consideration, had filed the matter.

Learned counsel for the petitioner further contends that the petitioner had wrongly been blamed by his Department for fabricating a letter submitted by his wife to her employer that he (petitioner) had opted to avail LTC benefits from the office of his wife; that an endorsement had been made in the ACR of the petitioner for the year 2010-2011 (01.09.2010 to 09.08.2011) qua the allegation that he had fabricated the said letter submitted by his wife. Learned counsel for the petitioner further contends that in response to the show cause notice issued to him, the petitioner submitted the reply that his wife had already deposited the amount in lieu of LTC sought to be claimed by her; that however vide letter dated 12.02.2013 (Annexure P-5), the petitioner had been conveyed the remarks 'Integrity Doubtful', as recorded in his ACR, and that the petitioner had also made the representation dated 08.04.2013 (Annexure P-5A) for expunging the adverse remarks recorded in his ACR. Learned counsel further contends that vide letter dated 05.02.2014 (Annexure P-8A), the Principal Secretary to Govt. Haryana, Technical Education Department, directed the Director General, Technical Education Department, Haryana, that in view of the adverse remarks about the integrity of the petitioner, his case for retention in service beyond the age of 50 years, be put up six months prior to attaining the age of 50 years.

Learned counsel for the petitioner further contends that vide letter (Annexure P-9), the Director General, Technical Education Department, Haryana, had directed to conduct a detailed inquiry about the LTCs claimed by the petitioner and his wife. Learned counsel further contends that vide letter dated 18.04.2014 (Annexure P-11), the Principal, Government Polytechnic, Jhajjar, informed that a Committee of three senior officers had submitted the report that LTCs by the petitioner and then by his wife, had been claimed inadvertently and without any wrong intention and it was also recommended that the decision conveyed vide letter dated 05.02.2014 (Annexure P-8A) might be reviewed for the reason that the same would cause a loss of about eight years of service benefit to the petitioner.

On the other hand, learned State counsel while opposing the grant of submissions made by the learned counsel for the petitioner, submits that the petitioner claimed LTC on 31.03.2010 whereas his wife claimed LTC on 13.08.2010 i.e. approximately five months after the LTC claimed by the petitioner; that the wife of the petitioner had claimed LTC for the block year 2006-2009 (extended upto 31.12.2010), on the basis of false and fabricated letter dated 07.09.2010 (Anexure R-5) stating that the petitioner had not claimed LTC from his department; that the petitioner and his wife had claimed LTCs for the same block years by submitting a false and fabricated document. Lastly, learned State counsel submits that adverse remarks 'Integrity Doubtful' in the ACR of the petitioner had been recorded after affording an opportunity of hearing to him and that the impugned order had rightly been passed by the concerned authority.

Learned State counsel further submits that as per the Rules, service of every employee is assessed after eight years and accordingly, service of the petitioner is to be assessed six months before attaining the age of 50 years.

I have heard the learned counsel for the parties.

The only dispute is qua the LTC claimed by the wife of the petitioner. A perusal of the record would show that the petitioner claimed LTC on 31.03.2010 whereas his wife, who was serving at Institute of Liver & Biliary Sciences, New Delhi, claimed LTC on 13.08.2010. Indisputably, the wife of the petitioner had already deposited a sum of Rs.36,500/- with the office of Institute of Liver & Biliary Sciences, New Delhi, on 22.10.2010 i.e. approximately within two months of LTC claimed by her.

The argument highlighted by the learned State counsel is that the letter dated 07.06.2010 allegedly issued by the Principal, Govt. Polytechnic, Jhajjar, indicating that the petitioner had opted to avail LTC benefits from the office of his wife, is a fake one. However the fact remains that the Principal, Government Polytechnic, Jhajjar, vide letter dated 18.04.2014 (Annexure P-11) also submitted that a Committee of three senior officers of the Institute had been constituted and it was found that no loss of revenue had been caused to the department and that the petitioner and then his wife had claimed LTCs due to inadvertence and without any wrong intention and that it was also recommended that the decision conveyed vide letter dated 05.02.2014, might be reviewed as the same would cause a loss of about eight years of service benefits to the petitioner.

Moreover on account of double benefit, the wife of the petitioner had already resigned and for any fault, if on her part, the petitioner cannot be held liable vicariously. There was no such issue before the concerned authorities qua the service of the petitioner, which is otherwise upto the mark.

In view of the above, the present petition is allowed. The adverse remarks recorded in the ACR of the petitioner for the year 2010-2011 (Annexure P-2) and the order dated 05.02.2014 (Annexure P-8A) are quashed.

However, it is made clear that this order is not to be treated as precedent and has been passed on the basis of the facts and circumstances of the present case only.

09.02.2023 **(HARNARESH SINGH GILL)**
parveen kumar **JUDGE**

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No