

2023:PHHC:129805
CWP-22462-2023
Date of Decision: 06.10.2023

Gajender Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Abhinav Aggarwal, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this writ petition challenges the order dated 04.08.2023 (Annexure P-14), passed by the respondents in compliance with the order dated 19.05.2023, passed by this Court in the previous writ petition filed by the petitioner bearing No.CWP-10870-2023, whereby respondent No.4 therein was directed to decide the representation already filed by the petitioner within a period of three months in accordance with law and convey the decision thereof to the petitioner.

2. Learned counsel for the petitioner submits that an FIR was registered against the petitioner and based on the said FIR, the petitioner's services were terminated vide order dated 16.03.2016 (Annexure P-3) in compliance with order passed on 23.02.2016, wherein directions were issued to terminate the services of the petitioner and also get lodged an FIR against the petitioner on account of cheating, criminal breach of trust and forgery. Learned counsel for the petitioner further submits that in the criminal case, the petitioner was discharged, as the police did not find anything incriminating against him and a final report was filed by the police, which

was accepted by the learned Magistrate, vide order dated 09.05.2017. The

petitioner thereafter requested for re-engagement and was re-engaged but after 89 days, the petitioner's services were dispensed with again on 18.12.2017. Thereafter, the petitioner submitted representation but the same remained unanswered and after that the petitioner filed a writ petition before this Court and pursuant thereto, the impugned order has been passed on 04.08.2023, stating that the petitioner was appointed by an outsourcing agency and he was not the employee of the department. Learned counsel submits that oral termination was bad in law as the respondents have given benefit to similarly situated other persons.

3. I have considered the submission.

4. The petitioner was an Assistant Lineman and would therefore fall within the ambit of '*workman*'. In view of the oral termination which would amount to retrenchment, the petitioner would be free to raise dispute before the Industrial Disputes Forum challenging the said action.

5. Granting the aforesaid liberty to the petitioner to raise the industrial dispute, this writ petition is dismissed on account of availability of efficacious alternative remedy, under the Industrial Disputes Act, 1947. If such a dispute is raised, the Labour Court shall accept the same directly in terms of Section 10 of the Act, 1947 and it is expected to decide the same as expeditiously as possible preferably within two years.

6. Writ petition dismissed with the aforesaid observations.

7. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

06.10.2023.

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1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No