

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203 CWP No.24273 of 2023
Date of Decision:26.10.2023

Khushboo

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Nilesh Bhardwaj, Advocate
for the petitioner.

Mr. Surender Singh Pannu, Addl. A.G., Haryana.

SANJAY VASHISTH, J.(Oral)

1. Present writ petition has been filed by the petitioner-Khushboo, under Articles 226/227 of the Constitution of India for seeking issuance of a writ in the nature of certiorari for quashing of show cause notice dated 16.10.2023 (Annexure P-14), whereby the petitioner has been called to show cause as to why her services may not be terminated and she be removed from service without any further intimation.

2. Learned counsel for the petitioner submits that petitioner is posted as Zoology Lecturer/extension Lecturer since the year 2016. Thus, after her appointment, petitioner has been performing her duty as Zoology Lecturer for the last more than seven years. Learned

counsel further submits that recently, through one memo No.4081-81 dated 16.10.2023, petitioner received a show cause notice, which impliedly was an order of removal from service being not eligible to teach the subject i.e. Zoology, as the petitioner is having qualification of M.sc. and P.h.D in Genetics. In the said show cause notice, there is a reference of an order passed by this Court (Punjab and Haryana High Court at Chandigarh) passed in CWP No.2510 of 2017 titled as Surender Singh and others Vs. State of Haryana and others.

3. Mr. Bhardwaj, learned counsel for the petitioner submits that infact, controversy in the referred writ petition was quite different and the findings recorded are in context to the fact that it is not even the domain of the Court to assess the requisite qualification or to equalize the two different qualifications. However, Mr. Bhardwaj, learned counsel for the petitioner further informs that the decision of the said writ petition is still pending adjudication in LPA No.1050 of 2023 and other connected appeals.

4. On being confronted with the fact that why petitioner has directly knocked the doors of the Court instead of appearing before the Authority regarding issuance of show cause notice, Mr. Bhardwaj, learned counsel for the petitioner gives explanation that infact, show cause notice itself, is in the nature of the order for removal from the service because, the observation of the authority is based upon the order already passed by this Court in aforesaid writ petition.

However, Mr. Bhardwaj, learned counsel for the petitioner submits that the petitioner requires some protection in service by providing some time to enable her to approach to the concerned authority to satisfy it by giving legally sustainable explanation.

5. On the previous date of hearing, notice of motion was issued for today by the Co-ordinate Bench of this Court, but no reply has been filed by the State/Respondent, rather, an adjournment is sought.

6. I have taken note of the fact that at the first instance, impugned show cause notice requires its final decision. Thus, considering the submissions of the petitioner, the present petition is disposed of with a direction that petitioner would submit her explanation/submissions in response to the impugned show cause notice dated 16.10.2023 within two weeks from the receipt of the certified copy of this order and thereafter the same would be decided finally by the Competent Authority within four weeks from the date of filing of reply to the show cause notice.

Taking into consideration all the submissions made by learned counsel for the petitioner, especially, by taking note of the fact that petitioner has already extended her services to the large number of students since July, 2016, meanwhile, she would be allowed to continue on the post, already working.

However, it is made clear that in case, order of the authority is adverse to the interest of the petitioner, same would not be implemented for next 10 days after any such decision, to enable the petitioner to assail such order, in accordance with law.

October 26, 2023

rashmi

Whether speaking/reasoned

Whether reportable?

[SANJAY VASHISTH]

JUDGE

yes/no

yes/no