

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(275)

CWP-35858-2019

Date of decision:- 20.02.2023

Dr. Sandeep Garg

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manoj Kumar Sood, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana
for respondents No.1 to 4.

None for respondent No.5.

SUVIR SEHGAL, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari seeking quashing letter dated 14.11.2019, Annexure P-7, whereby respondent No.2 wrote a letter to respondent No.3 to seek explanation of the petitioner for violating the conduct rule as petitioner wrote a letter to respondent No.5 without raising his grievance with higher officials. Another prayer has been made for issuance of a writ in the nature of mandamus directing respondents No.1 to 4 to grant paternity leave to the petitioner on birth of his second child.

At the outset, counsel for the petitioner submits that the second prayer is not being pressed. In so far as the first prayer is concerned, counsel submits that on the birth of a second child, petitioner, who is working as a Medical Officer, applied for paternity leave. He submitted a revised application dated 17.09.2019, Annexure P-2, to the Medical Superintendent-

respondent No.4 and forwarded a copy of the application to HEDA-respondent No.5. Counsel submits that this has offended the official respondents, and they have been issued the impugned letter, Annexure P-7.

Per contra, State counsel has argued that the petitioner has violated Government instructions and is liable to be departmentally proceeded against. He urges that writ petition is pre-mature as no explanation has been called from the petitioner so far.

I have heard counsel for the parties.

Although, at this stage, no Show Cause Notice has been issued to the petitioner pursuant to impugned letter, Annexure P-7, but the Court is not satisfied with the stand taken by the State. Reference may be made to instructions, Annexure R-2, dated 07.05.1987 and the same are reproduced as under:-

“From

The Chief Secretary to Govt. Haryana.

To

*1. All Heads of Departments,
Commissioners of Divisions,
All Deputy Commissioners and
Sub Divisional Officers (C) in Haryana
2. The Registrar, Punjab and Haryana High Court
Chandigarh.*

Dated Chandigarh, the 7th, May, 1987

*Subject: Approaching Ministers and other authorities for
recommendations in service matters.*

Sir,

I am directed to invite your attention to the instructions contained in circular letters noted in the margin, on the subject cited above, in which Government servants were forbidden to approach Ministers, Members of Parliament or Vidhan Sabha or any other influential Public persons in connection with matters pertaining to their service. It was further directed that subordinate officers wishing to bring any matters to the notice of Government should always address higher authorities, Government through their superiors.

2. It has been observed by the Government that these

instructions are not being adhered to strictly and there has been increasing tendency on the part of employees to approach higher authorities in the matter relating to their service in violation of Conduct Rules and proper channel. In this respect it is clarified that approaching Governor/Central or State Ministers or any other superior authority or influential public man in connection with their official grievances violates Rule 20. of the Government Employees (Conduct) Rules, 1996 and would attract disciplinary action under Haryana Civil Services (Punishment & Appeal) Rules, 1987.

It is therefore requested that the above instructions may kindly be brought to the notice of all officers/officials working under you for strict compliance. The employees found violating these instructions will be proceeded against for disciplinary action.

*Yours faithfully
Sd/-
Under Secretary General Administration
for Chief Secretary to Govt. Haryana.”*

Perusal of Annexure R-2 clearly reflects that the intention behind the issuance of instructions is that an employee is barred from approaching any public representative, except through proper channel. HEDA is not a public representative, but an Association of Haryana ESI Doctors. Merely forwarding a copy of an application to an Association, does not amount to violation of conduct rules so as to invite disciplinary action. It is not the case of the official respondents that the Association tried to intervene or exert any pressure.

For these reasons, impugned letter, Annexure P-7, cannot be sustained.

Accordingly, petition is allowed. Annexure P-7 is quashed.

20.02.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No