

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(Sr. No. 111)

CWP No.2148 of 2024

Date of decision: 12.02.2024

Indian Council of Agricultural Research and others

.....Petitioners

Versus

Dr. Meena Malik and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Amit Bansal, Advocate and
Mr. Naresh Kumar Bansal, Advocate for the petitioners.

* * *

DEEPAK SIBAL, J. (Oral)

(1) Respondent No.1 was serving the petitioner No.1-Institute (for short – the Institute) as a Professor in English. She knocked the doors of the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short – the Tribunal) through filing of an Original Application (for short – OA) seeking therein to restrain the Institute from retiring her at the age of 60 years as according to her, she was entitled to serve the Institute till 62 years.

(2) Respondent No.1's OA came up for preliminary hearing on 21.06.2021 on which date the Tribunal issued notice to the petitioners, who were the respondents in the OA. In the meantime, as an interim measure, the Tribunal directed to maintain status quo qua respondent No.1's services. Since on 21.06.2021, respondent No.1 was in the service of the Institute, in

compliance with the aforesaid interim directions passed by the Tribunal, she continued in service for which she was also paid salary etc. Respondent No.1's OA was finally dismissed by the Tribunal on 23.10.2023. However, while rejecting her OA, the Tribunal directed the Institute not to recover the pay/allowances drawn by respondent No.1 for the period she had served the Institute under the interim directions of the Tribunal dated 21.06.2021.

(3) The grounds taken in support of her OA by respondent No.1 are not relevant because through the impugned judgment the Tribunal rejected all of them and that she is not who has petitioned this Court to challenge such rejection.

(4) Through the present petition preferred by the petitioners a limited challenge has been made and that is to the direction given by the Tribunal, not to recover from respondent No.1 the pay and allowances drawn by her while she served the Institute beyond the age of 60 years only under the interim order passed by the Tribunal.

(5) Learned counsel for the petitioners submits that as per the final judgment of the Tribunal respondent No.1 had no right to continue in service beyond the age of 60 years; after the age of 60 years respondent No.1 served the Institute only under the interim order passed by the Tribunal and therefore, for her service beyond the age of 60 years, respondent No.1 was not legally entitled to any pay and/or allowances.

(6) Learned counsel for the petitioners has been heard and with his able assistance the record of the case has also been perused.

(7) The interim order of the Tribunal dated 21.06.2021 in pursuance whereof respondent No.1 served the Institute was not challenged by the petitioners before any superior Court.

(8) It is also not disputed that in the OA filed by respondent No.1, she had neither misrepresented nor misled the Tribunal and that during the period that respondent No.1 served the Institute under the interim order passed by the Tribunal, her work and conduct was satisfactory.

(9) In the light of the afore facts, even if respondent No.1's OA was finally dismissed, it would be unjust and unfair to permit recovery of the pay and allowances which she had earned for the service rendered by her under the interim order passed by the Tribunal in her favour. In this regard reference to the following observations by the Supreme Court in its order dated 11.01.2019 in ***Civil Appeal No.618 of 2019 - Ram Chet Verma and others Vs. The State of Uttar Pradesh and others*** would be useful :-

“Since the appellants have served as per the interim order, obviously they have to be paid the salary for the period they have rendered their services. Non-payment of salary to them for the period they have served under the interim order or otherwise would tantamount to taking begar from them, which is prohibited under Article 23 of the Constitution of India.

Therefore, we direct that the appellants shall be entitled to salary for the period they have rendered their services. The salary, if not paid, shall be paid to the appellants within four weeks from today.

It is made clear that if the appellants have been paid the salary for the aforesaid period, the same shall not be recovered from them.”

(10) Similarly, in ***Jagpal Singh Vs. The State of U.P. and others*** ***2023 SCC OnLine SC 1080***, the Supreme Court has held as under :-

“In view of the aforesaid facts and circumstances, we are of the opinion that the view expressed by the Division Bench of the High Court in allowing the appeal, is well within the four corners of law which order does not suffer from any material illegality or irregularity. The Division Bench has rightly set aside the judgment and order of the learned Single Judge dated 31.10.2012 by which the writ petition was allowed in complete ignorance of the fact that the services of the petitioner stood determined long back and that the petitioner is not entitled to any benefit on the basis of his subsequent promotion which automatically falls with the termination attaining finality. Accordingly, we find no merit in the Special Leave Petition and the same is dismissed, however, the respondents shall not initiate any recovery of the salary drawn by the petitioner for the period he has actually worked.”

(emphasis supplied)

(11) In the light of the above, no error, in fact and law, is found in the impugned judgment.

(12) Dismissed.

(13) No costs.

(DEEPAK SIBAL)
JUDGE

12.02.2024
sunil yadav

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No