

IN THE HIGH COURT OF PUNJAB AND HARYANA AT 204
233

CWP-2390-2022 (O&M)
Decided on :06.03.2024

NIDHI GANDHI

...PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Nitin Jain, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that though she had secured enough assessment marks to be treated as the good employee but her services were terminated while working on the post of consultant in Public Health Planning by the respondents-department on the ground that her performance is not satisfactory.

2. Learned counsel for the petitioner submits that once, the performance of all the employees who are working with the department concerned is being assessed on the basis of the marks being given to them in their Annual Assessment Report, the department can only terminate the services of an employee who comes within the gradation "Poor" whereas the gradation of the petitioner even before the order of termination of her services was "good", hence, action of the respondent of terminating the services of the petitioner is totally arbitrary and illegal.

3. Learned counsel for the petitioner further submits that in some what similar circumstances, where an employee had secured just one marks over the gradation of "Poor" even the termination of the services of such employee has been held to be bad by the Division Bench of this Court in

LPA No. 734 of 2022 titled as Rihan Raja v. State of Haryana and others.

4. Learned counsel for the petitioner further submits that keeping in view the said fact, coupled with the fact that by an interim order dated 02.03.2022, the petitioner has already reinstated in service and she is discharging her duties and as per the fresh appraisal report, the petitioner has been described as a very good officer, the petitioner is entitled to continue in service.

5. Learned counsel for the respondents on the other hand submits that the action was taken against the petitioner after the appraisal report given by the authorities concerned and keeping in view the certain observations qua the temperament of the petitioner, coupled with the marks given in the appraisal report, the decision was taken.

6. Learned counsel for the respondents concedes the fact that after the petitioner has been allowed to join back in service in pursuance to the interim order dated 02.03.2022, there is no adverse report against the petitioner as of now.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. It may be noticed that once, a criteria has been framed to adjudge an employee on the basis of marks to be given, the same has to be adhered to while deciding as to whether, a particular employee is entitled to continue in service or not. It is only an employee who has been graded as 'Poor' should be proceeded against and not an employee, who according to the assessment given by the respondents themselves, has been treated as a "good officer".

9. The petitioner has been treated as a "good officer" even as per

the grading given by the respondents themselves. Merely that certain observations about the temperament of the petitioner has been mentioned in her ACR, but the same cannot be made ground for terminating the services of the petitioner, unless and until, the petitioner had taken any action or reacted in a manner which would violate any rule governing the service.

10. In the absence of any violation of rules governing the service, when the petitioner has already been adjudged as a good officer, the decision to terminate the services of the petitioner is not supported by any evidence which has come on record.

11. Keeping in view the above, the impugned order dated 22.11.2021 (Annexure P-9) is set-aside and the respondents are directed to allow the petitioner to continue in service subject to her good conduct and getting good appraisal report from the officer concerned.

12. The respondents will only make the petitioner signed the contract which has been signed qua the other employees working in the department concerned and the terms and conditions of the said contract will be akin to the terms and conditions of the other employees working in the department concerned and the petitioner has undertaken before this Court to sign the same.

13. The present petition stands disposed of in above terms.

14. Pending civil miscellaneous application, if any, stands disposed of.

06.03.2024

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

(HARSIMRAN SINGH SETHI)
JUDGE