



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(236)

CWP No. 7349 of 2020 (O&M)
Date of Decision : 28.11.2024

Babandeep Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manpreet Singh Dua, Advocate for the petitioner(s).

Mr. Arun Gupta, Deputy Advocate General, Punjab.

Mr. Nakul Sharma, Advocate for respondents No. 5 and 7.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 05.03.2020 (Annexure P-3) by which the services of the petitioner, who was working with the respondents have been terminated.

2. Learned counsel for the petitioner argues that before passing the order dated 05.03.2020 (Annexure P-3), no opportunity to defend was given to the petitioner and as the order dated 05.03.2020 (Annexure P-3) is totally stigmatic as allegations have been alleged that the behavior of the petitioner was bad, the said order is liable to be set-aside.

3. Learned counsel for the petitioner submits that nothing has been brought on record to show that at any given point of time or due to any



incident, the behavior of the petitioner was bad but still, the said allegations have been made so as to cause stigma upon the petitioner and as per the settled principle of law in case, any allegation is made against an employee so as to terminate the services, an enquiry is must to prove the said allegation which process has not been followed in the facts and circumstances of the present case.

4. Upon notice of motion, the respondents have filed the reply, wherein, the respondents have stated that the services of the petitioner have been terminated keeping in view the Resolution passed by the Panchayat Samiti, hence, no enquiry was required to be done as the conduct of the petitioner was not good and was not satisfactory.

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

6. Learned counsel for the petitioner argues that the impugned order is stigmatic and causes aspersion on the conduct of the petitioner but without there being any valid justification or evidence to support the same. Even in the reply, the respondents have not stated as to what action on the part of the petitioner led to infer that the behavior of the petitioner was not good so as to retain him in service. Once, the allegations alleged in the impugned order have not been clarified/substantiated even in the reply, no ground is made out to accept that the reason given by the respondents is valid.

7. Further, once an allegation is being made that the petitioner's behavior was not good, the same has to be established in a departmental



enquiry before accepting the said allegation as proved so as to pass adverse orders against the petitioner. Concededly, no enquiry has been conducted against the petitioner. As per the settled principle of law in SLP (C) No. 10546 of 2019 titled as ***State Road Transport Corporation and others Vs. Brijesh Kumar***, decided on 28.08.2024 and Civil Appeal No. 9758 of 2024 titled as ***Swati Priyadarshini Vs. State of Madhya Pradesh***, decided on 22.08.2024, once an allegation has been made to pass an order causing prejudice to an employee, the enquiry is must to prove the said allegations before taking any action. The relevant paragraph 19 of the judgment in ***State Road Transport Corporation and others (supra)*** is as under :-

“19. The services of the respondent have been determined solely on the ground of misconduct as alleged but without holding any regular inquiry or affording any opportunity of hearing to him. The termination order has been passed on the basis of some report which probably 9 was not even supplied to the respondent. No show cause notice appears to have been issued to the respondent. Therefore, the order of termination of his services, even if on contractual basis, has been passed on account of alleged misconduct without following the Principles of Natural Justice. The termination order is apparently stigmatic in nature which could not have been passed without following the Principles of Natural Justice.”

8. Further, it is also a settled principle of law that stigmatic order cannot be passed without holding an enquiry. In the present case, the impugned order dated 05.03.2020 (Annexure P-3) is stigmatic and hence, cannot be sustained in the eyes of law.



9. Learned counsel for the respondents has placed reliance upon the judgment of the Division Bench of this Court in LPA No. 2206 of 2015 titled as ***Dr. Krishna Mohan Singh, son of Late Satya Narain Singh, resident of Mohalla S.D.O. Road, P.O.-Hazipur Town, District Vaishali Vs. The State of Bihar***, decided on 06.04.2016 to hold that where the conduct of an employee is not good and the employee is contractual, no show cause notice is to be given.

10. It may be noticed that keeping in view the judgment of the Hon'ble Supreme Court of India noticed here-in-before, wherein, even for a contractual/temporary employee where the allegations have been alleged, the enquiry is must, hence, the benefit of the judgment being relied upon by the learned counsel for the respondents cannot be brought into operation so as to reject the claim of the petitioner.

11. Learned counsel for the petitioner, on seeking instructions from the petitioner, who himself is present in Court, submits that in case the petitioner is allowed to join within a period of four weeks from today, he will not seek any arrears of salary for the period upto four weeks from today.

12. At this stage, learned counsel for the respondents submits that as the order is being set-aside on technicalities, the back wages be not awarded in favour of the petitioner.

13. Keeping in view the said, let the respondents reinstate the petitioner within a period of four weeks from today and in the said eventuality as undertaken by the petitioner, the petitioner will not be entitled for any back wages for the period he remained out of service.



- 14. Petition is allowed in above terms.
- 15. Pending miscellaneous application, if any, also stands disposed of.

November 28, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No