

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

2024:PHHC:031369-DB
LPA-1011-2022 (O & M)
Date of Decision: 05.03.2024

Madhvi LochabAppellant(s)

Versus

State of Haryana and othersRespondent(s)

AND

LPA-537-2024 (O & M)

Meena KumariAppellant(s)

Versus

State of Haryana and anotherRespondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. R.S. Mamli, Advocate,
for the appellant (in LPA-1011-2022).

Mr. Rahul Verma, Advocate,
for Mr. Anoop Kumar, Advocate,
for the appellant (in LPA-537-2024).

Mr. Deepak Balyan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

Refiling Applications

1. Applications for condonation of delay of 107/196 days in refiling the appeals are allowed, in view of averments made in the applications supported by affidavit of the appellants.
2. Delay condoned.
3. CMs stand disposed of.

Filing Application in LPA-537-2024

4. Application for condonation of delay of 40 days in filing the appeal is allowed, in view of averments made in the application supported by affidavit of

5. Delay condoned.
6. CM stands disposed of.

Main Appeals

7. The present judgment shall dispose of two letters patent appeals i.e. LPA Nos.1011 of 2022 and LPA-537-2024. Facts are being taken from ***LPA-1011-2022, Madhvi Lochab vs. State of Haryana and others.***

8. Consideration in the present letters patent appeal is to the judgment dated 03.02.2022 passed by the learned Single Judge in CWP-3266-2017 whereby, the writ petition was dismissed. The learned Single Judge declined to interfere in the order of termination dated 30.06.2015 (Annexure P-9) of the writ petitioner who was a contractual employee.

9. The reasoning which weighed with the learned Single Judge was that it was the prerogative of the employer to continue with the services of the appellant herein and merely because she had been acquitted on the criminal side would not be a sufficient ground to set aside the termination order. A finding was recorded that it is not the FIR alone that has resulted in the termination order but the unsatisfactory work performance of the writ petitioner which has been noticed in the impugned order. The learned Single Judge also came to the conclusion that since it is a matter of contract, the Court would not exercise its extra ordinary writ jurisdiction and the proper remedy is to decide on the basis of pleadings and affidavits as there are disputed questions.

10. Counsel for the appellant has vehemently argued that without any procedure being followed, the appellant has been shunted out and having earned an acquittal on 21.11.2016, she was entitled for reinstatement.

11. We have perused the paper book. The appellant was working as Protection Officer-cum-Child Marriage Prohibition Officer (Female) and was appointed on 30.10.2008 (Annexure P-1) for a period of three years. The terms of

the contract as such, as per Clause 7, were that if the work and conduct was not found satisfactory, the services were to be terminated without any prior notice. Clause 10 further provides that the appointment was subject to the character and antecedents being certified to be good by two gazetted officers. During the course of employment, apparently the appellant was involved in FIR No. 39 dated 18.06.2015 under Sections 7 and 13 of the Prevention of Corruption Act, 1988 lodged at Police Station SVB(H), Rohtak.

12. A perusal of the judgment of acquittal (Annexure P-6) would go on to show that it was a case of a demand which was raised of Rs.10,000/-. On a raid being conducted at the time of the demand, the appellant was apprehended with the money in her hand and on the washing of the hands, the water had turned light pink. Only on account of the fact that Kapil, the complainant (PW-2) had turned hostile, the benefit of doubt has been given by the Additional Sessions Judge, Rohtak that the guilt of the accused had not been proved by the prosecution. The testimony of the shadow witness PW-6 was also held to be not trust worthy. The Trial Court came to the conclusion that mere possession and recovery of currency notes from the accused without proof of demand would not attract offence under Section 13(1)(d) of the P.C. Act.

13. The reasoning which weighed while dispensing with the services vide the impugned order by the Director, Women & Child Development Department, Haryana, Panchkula would go on to show that while keeping in view the terms of Clause 7 of the offer of appointment, as mentioned above, the finding was recorded that if the employee is kept in further service, the image of the department would be tarnished and it will encourage other employees also to do such acts. It is in such circumstances, the contract has been cancelled and the services have been dispensed with keeping in mind the conduct of the appellant.

dispensing of the services has been done as per the terms of the contract and, therefore, merely because she was acquitted on the basis of benefit of doubt would not be a sufficient ground as such to interfere in the order of the learned Single Judge. Reliance can also be placed upon the judgment of the Apex Court in *Rajasthan State Roadways Transport Corporation vs. Paramjit Singh, 2019 (2) SCT 781* wherein services of a contractual employee had been dispensed with.

15. Accordingly, finding no merit in the appeal, the same is dismissed.

16. In LPA-537-2024, Meena Kumari vs. State of Haryana, the facts are different to the extent that the judgment had been passed in CWP-23822-2014 on 07.07.2023. The writ petitioner was also similarly appointed on contract and was working on the post of Protection Officer-cum-Child Marriage Protection Officer and was involved in FIR No. 17 dated 30.05.2022 under Section 7 of the P.C. Act. However, the only difference is that the trial is still pending.

17. For reasons given above, the dispensing of the services of the contractual employee is not liable to be interfered with and has been rightly upheld by the learned Single Judge. Accordingly, LPA-537-2024 also stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

05.03.2024
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(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No