

CWP No. 6897 of 2024

2024:PHHC:044554

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(114)

CWP No. 6897 of 2024

Date of Decision : 02.04.2024

Narender Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Singh Dhull, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

In the present petition, the challenge is to the order dated 20.02.2024 (Annexure P-30) on the ground that the respondents have not taken into consideration the report of the Civil Surgeon by which, the petitioner was exonerated of the misconduct alleged against him.

Learned counsel for the petitioner submits that the petitioner, who was working with the respondents, was relieved from service on account of the fact that there were allegations alleged against the petitioner and by stating that there were FIRs, which were registered against the petitioner. Learned counsel for the petitioner further submits that the allegations of embezzlement and registration of an FIR were incorrect but still, the petitioner has been relieved from service hence, the order dated 20.02.2024 (Annexure P-30) is liable to be set-aside.

Notice of motion.

On the asking of the Court, Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

Learned counsel for the respondents submits that the order dated 20.02.2024 (Annexure P-30) is a speaking order. Learned counsel submits that there were two main allegations alleged against the petitioner and even if it is assumed that the petitioner was not guilty of the embezzlement or was not connected with the FIR registered against him by the CBI on 23.05.2016 still, at the time when the petitioner got appointment under National Health Mission, he was already working as a Director in a private limited company, which fact was not disclosed to the respondents and it has already come on record that the petitioner was performing the duties of the Director in a private limited company even while working with the National Health Mission on contractual basis. Learned counsel for the respondents further submits that as the petitioner have performed the duties of the Director in a private limited company, while working under the National Health Mission, the petitioner has been relieved rightly from the service.

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

It may be noticed that the petitioner joined the National Health Mission on contractual basis and while giving the details of his academic qualifications and other curricular activities to the respondents

while seeking the appointment, the petitioner did not inform the respondents that he is already working as a Director of a Private Limited Company. It is also a conceded position as of now before this Court during the course of hearing that after the appointment under the National Health Mission, the petitioner continued working as a Director of a Private Limited Company and there were several cases registered against him under Section 138 of the Negotiable Instruments Act, 1881.

The employee has to be truthful while seeking the appointment and cannot hide the information, which is necessary to get the appointment. Once, the petitioner withheld the information that he is already working as a Director in a Private Limited Company and petitioner continued to work as such even after getting appointment under the National Health Mission, the respondents were perfectly within jurisdiction to relieve the petitioner from service keeping in view the nature of appointment of the petitioner i.e. contractual.

Further, it may be noticed that the petitioner was not a regular employee of the National Health Mission and was working on contractual basis. A contractual employee does not have right to hold the post. Keeping in view these facts in mind, once it is conceded before this Court that even after the appointment under the National Health Mission, the petitioner continued to discharge his duties as a Director of a Private Limited Company and had taken certain actions as Director of the said private limited company, the action of the department in relieving the petitioner from service needs no interference by this Court.

Further, it may be noticed that the petitioner had challenged the relieving from service by filing CWP No. 7628 of 2022, which writ petition was dismissed on 14.07.2022. Thereafter, he had filed another writ petition being CWP No. 7535 of 2021 (Annexure P-14), which was also dismissed for non-prosecution. Thereafter, the 3rd petition was filed being CWP No. 14150 of 2023 challenging the order of relieving from service, which petition was withdrawn with liberty to approach the authorities.

Keeping in view these facts, once the order of relieving had already attained finality after dismissal of CWP No. 7628 of 2022 (Annexure P-28), even otherwise, the petitioner is precluded from challenging the impugned order.

No ground is made out for any interference by this Court in the present petition.

Dismissed.

April 2nd, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No