

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-8867-2019 (O&M)
Decided on : 27.02.2024

PARVEEN KUMAR AND ANOTHER

...PETITIONERS

Versus

STATE OF HARYANA AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Shubhkarman Singh Gill, Advocate for
Mr. Kshitij Sharma, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the prayer of the petitioners is that the services of the petitioners were terminated by the respondents-department vide impugned order dated 25.03.2019 (Annexure P-3 Colly) by alleging some misconduct against the petitioners.
2. Learned counsel for the petitioners argues that the said misconduct has not been proved in accordance with law and rather, even as per the preliminary enquiry report, which has been made the bases for the order of termination of services of the petitioners, the same is of the year 2017, whereas, the impugned order terminating the services of the petitioners was of the year 2019, after a period of two years of the said report, which shows that, the said preliminary enquiry report has only been made a bases to cover up the termination of the services of the petitioners.
3. Learned counsel for the respondents on the other hand submits that the complaints were made against the petitioners by the authorities concerned with regard to harassment and the same was looked into and keeping in view the findings of the preliminary enquiry report, the action

terminating the services of the petitioners has been taken against the petitioners which is perfectly valid and legal.

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

5. It may be noticed that while issuing notice of motion, the operation of impugned order dated 25.03.2019 (Annexure P-3 Colly) was stayed by the Co-ordinate Bench of this Court and consequently, the petitioners are still continuing in service.

6. Though the petitioners are contractual employees but, once, the action is being taken against them for a misconduct, the said misconduct is to be proved by giving due opportunity and also by giving due opportunity to rebut the evidence which has come on record against the petitioners to support the said allegations. Nothing has come on record that the due procedure was followed before accepting that the petitioners misconducted so as to terminate their services.

7. Even otherwise, the so called preliminary enquiry report, which has been made the basis for termination the services of the petitioners, does not cast doubt on conduct of the petitioners that they harassed any employees of the department concerned. Learned counsel for the respondents has not been able to show that the allegations of the misconduct have been proved against the petitioners in the preliminary enquiry. Rather, against petitioner No. 2- Manjeet, the allegations with regard to harassment of an employee of the department concerned has not been proved in the preliminary enquiry report. Qua the other petitioner, namely, Parveen Kumar, the action is being taken on the ground of absence which has also not been proved by the respondents in the said report.

8. Keeping in view the facts and circumstances that have already come on record herein above and as the preliminary enquiry report does not support the misconduct being alleged against the petitioners, the action has been taken against the petitioners by the department concerned without there-being any evidence to support the said allegations of misconduct and as the petitioners are already continuing in service, hence, they should be allowed to continue in service till the work of the said post on which the petitioners are working exist and also subject to maintain absolute integrity and conduct towards their duty. Hence, the impugned order dated 25.03.2019 (Annexure P-3) is hereby set-aside and the present petition stands disposed of in above terms.

9. Pending miscellaneous application if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

27.02.2024
Riya

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