

114 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9146-2024
Date of Decision: 24.04.2024

RAHUL RAJ SINGH AND ANOTHER ...Petitioners
Vs.
STATE OF HARYANA AND OTHERS ...Respondents

CORAM:- HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Babbar Bhan, Advocate for the petitioners.
Mr. Sanjeev Kaushik, Addl. AG, Haryana.
Mr. Sunish Bindlish, Advocate for respondent No.2.
Mr. Naman Jain, Advocate for respondent No.3.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* and *quo warranto* for setting aside the office order dated 19.04.2024, Annexure P-8, whereby respondent no.3 has been reinstated as Principal, Institute of Hotel Management Catering Technology and Applied Nutrition, Rohtak, (in short 'IHM') for the remaining period of his contractual employment extended vide order dated 25.04.2022.

2. Briefly, as per facts on record, the third respondent superannuated from service on 30.04.2021, and was re-employed as Principal, IHM, Rohtak, for one year w.e.f. 01.05.2021 vide office order dated 26.04.2021, Annexure P-1. The term was extended for another year w.e.f. 01.05.2022 to 30.04.2023, as per Rule 5(vii) (a) Chapter 2 of Staff Regulations of the Institute of Hotel Management Catering Technology & Applied Nutrition, Rohtak, Panipat, Kurukshetra, Yamunanagar and Faridabad, (in short 'the Regulations'), vide office order dated 20.04.2022, Annexure P-2. This order was challenged by petitioner no.1 by filing CWP-

12683-2022 titled *Rahul Raj Singh v. State of Haryana and others, inter alia*, on the ground of violation of the Regulations. While issuing notice of motion, operation of the office order dated 20.04.2022, granting the extension to third respondent upto 30.04.2023, was stayed by this Court vide order dated 29.07.2022. The petition was finally heard along with another writ petition, CWP-7805-2022, *Pawan Kumar Gupta Vs. State of Haryana and others*, which pertained to contractual appointment/extension of another Principal, and both the petitions were dismissed vide common order dated 06.07.2023, Annexure P-7. It was also held that the petitioners therein had no *locus standi* to file the petition, not being an aggrieved party. After dismissal of the petitions, the official respondents vide impugned order dated 20.04.2024, reinstated the third respondent as Principal of IHM, Rohtak, on contract basis for the remaining period of his contractual appointment, which was extended vide office order dated 20.04.2022.

3. It has been contended by learned counsel for the petitioners, Mr. Babbar Bhan, that the impugned order is illegal, as the earlier petition challenging the extension of contract, vide office order dated 20.04.2022, was entertained by the Court restraining the third respondent from working as Principal. And before its dismissal on 06.07.2023, the extended term had already ended. Accordingly, the petition had been rendered infructuous. Once the term was already over, he could not have been reinstated as Principal. Besides, the reinstatement is in violation of the rules as the impugned order has been passed by the second respondent and not the Board of Governors (BoG), which is the competent authority to re-employ the retired employees on contract basis as per Clause 5(vii) (a) of the Regulations.

4. Learned counsel for the second and third respondents, Mr. Sunish Bindlish and Mr. Naman Jain, appearing on the advance notice, contend that the petitioners have no *locus standi* to file the petition, as already held by this Court while dismissing his earlier petitions challenging the office order dated 20.04.2022. The petitions were dismissed on merits also, and the petitioners would, therefore, have no right to file the instant petition on the same cause of action. Further, there is no violation of the Rules, since the second respondent was authorised to exercise powers of appointment with respect to Group 'A' and 'B' staff in IHMs, including the one at Rohtak. They have furnished a copy of the minutes of meeting of Haryana State IHMs, dated 20.10.2022, wherein the aforesaid decision was taken by the Board of Governor; the same is taken on record as Annexure 'A'.

5. Learned counsel for the parties have been heard.

6. As per the undisputed facts on record, petitioner no.1 earlier challenged the re-engagement of third respondent on contract basis from 01.05.2022 to 30.04.2023, vide office order dated 20.04.2022, by filing CWP-12683-2022, which was dismissed on 06.07.2023 along with another petition on merits, as also by holding that the petitioner(s) had no *locus standi* to file the petition not being aggrieved by the office order. Petitioner no.2 is similarly placed as petitioner no.1 and is not aggrieved by the order. Therefore, the instant petition challenging the reinstatement of third respondent for remainder of the term of contractual appointment given to him by that very office order dated 20.04.2022, cannot be held maintainable. Further, it stands established, vide minutes of the joint meeting of Haryana IHMs dated 20.10.2022, that second respondent was the competent authority to pass the

impugned order as well as the office order dated 20.04.2022. Accordingly, there is no substance in the submission by learned counsel for the petitioners that the order is without jurisdiction.

7. Additionally, a perusal of Clause 5(vii) (a) of the Regulations shows that the period of service of an employee can be extended beyond the age of superannuation on re-employment or on contract for a period not exceeding two years in aggregate. The third respondent, undisputedly, could not serve a part of his extended tenure (which did not exceed two years) on account of interim stay granted by this Court on the office order dated 20.04.2022. Since the challenge to this order remained unsuccessful resulting in dismissal of the writ petition on 06.07.2023, no exception can be taken to the impugned order reinstating him to complete the remaining period of the contractual employment, which he could not do on account of pendency of the writ petition in this Court. Dismissal of the petition itself establishes that the petitioner was not entitled to challenge the office order, nor was there any infirmity in it; consequently, the third respondent could not have been prevented from working as Principal for the extended tenure. And the respondents are within their rights in allowing him to do that vide the impugned order.

8. For the reasons recorded above, no ground for interference is made, and the present petition stands dismissed.

24.04.2024
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(TRIBHUVAN DAHIYA)
(JUDGE)

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No