

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Neutral Citation No. 2024:PHHC:036419-DB

(104)

LPA-1415-2023 (O&M)

Decided on : 14.03.2024

Haryana Vidyut Prasaran Nigam Limited and others

.....Appellant(s)

Versus

Sandeep Jailwal and another

.....Respondent(s)

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

Present: Mr. Hitesh Pandit, Advocate for the appellants.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-3596-LPA-2023

Application for condonation of delay of 38 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit. Delay of 38 days in filing the appeal is condoned.

CM stands disposed of.

LPA-1415-2023 (O&M)

Consideration in the present letters patent appeal is sought of the order of the learned Single Judge dated 10.03.2023 passed in **CWP-14879-2019 ‘Sandeep Jailwal Vs. State of Haryana and others’**, whereby the writ petition was allowed and the order dated 23.05.2019 was set aside, whereby the services of the writ petitioner had been dispensed with during the period of probation, on the ground that his work had not been found satisfactory, while working as Assistant Engineer/Electrical. The offer of appointment dated 24.11.2017 (Annexure P-3) was kept in mind while dispensing with the services by the appellants.

2. The Learned Single Judge has noticed keeping in view the stand taken by the appellants that on account of the police verification

done and as per the report submitted on 12.06.2018 (Annexure R-2/2) wherein it had been found that there was an FIR bearing No.848 dated 03.11.2016 under Sections 323/325/506 IPC read with Section 34 IPC registered at Police Station Sector-7, Faridabad was lodged against the writ petitioner, the services were sought to be dispensed with, though it was not on account of the work and conduct as such of the writ petitioner. The Learned Single Judge has also found that the writ petitioner had been given additional charge on 14.01.2019 of 66 KV Sub-Station, HVPNL, Gurugram, before the order of dispensing of the services dated 23.05.2019 (Annexure P-6) was passed and therefore, it was during probation period, which was apparently satisfactory. Keeping in view the fact that the allegations in the FIR are general in nature and the writ petitioner was not armed with any lethal weapon and injuries were simple in nature, except one injury on the complainant of fracture of right nasal bone, a finding was recorded that there was no concealment on the part of the writ petitioner. Information was to be given at the time of applying regarding the fact that whether he had been convicted prior to his appointment and there was no such column to inform about pendency of such criminal proceedings against him and the FIR in question was not regarding moral turpitude which would render him unsuitable for Government service.

3. While referring to the relevant columns, the Learned Single Judge has found that the offer of appointment dated 24.11.2017 (Annexure P-3) there was a Column No.3 (IV) whereby the information was to be given that he was not a dismissed Government/Public Servant or a person convicted of an offence involving moral turpitude. Similarly in the form which had been filled up on 30.11.2017 (Annexure R-2/1), Column No.13

talked about conviction by Court of any offence and particulars had to be given and, therefore, concealment also while filling up the form was also not in the case in question. It was only on account of the fact that in the appointment letter dated 06.12.2017 (Annexure P-4), there was a column that there is no FIR/Criminal Case pending against him, which would render him ineligible or unsuitable for appointment, his services had been dispensed with. Resultantly, keeping in view the fact that there was no material on record to indicate that during the probation the work and conduct of the writ petitioner had not been satisfactory, the order was set aside.

4. During the course of arguments, counsel for the appellants has fairly placed on record the judgment dated 28.07.2023 passed by the Judicial Magistrate 1st Class, Faridabad, whereby the writ petitioner has been acquitted of the charge against him. A perusal of the said judgment would go on to show that prosecution had failed to prove the guilt against accused persons beyond shadow of reasonable doubt. The presence of the writ petitioner Sandeep Jailwal at the time of incidence was doubted, since DW-2 Vinod Kumar Sexana had stated that he was present at their house. The parties are closely related, which would be clear from the statement of PW-4 Shamsher Singh that one of the accused Nihal Singh was his brother-in-law and there was a dispute regarding Rs.2.5 crores having worked as partners and the house was purchased by them through the money of partnership firm.

5. Thus, keeping in view the above, we are of the considered opinion that the Learned Single Judge was justified while holding that it was not case of moral turpitude in any manner. The appointment as such

was on the basis of grade secured in GATE Score of 2017 and there was no such column which had been filled up wherein the writ petitioner had concealed the facts regarding the lodging of the FIR. It was only in the offer of appointment wherein a condition was put that if there was something against him which would render him unsuitable for services on verification of his character and antecedents later on, the appointment would be subjected to said condition. The dispute in question was with close family members and, thus, was nowhere related to the discharge of duties or with the employer and has, thus, been rightly held to be out of the ambit of moral turpitude.

6. In such circumstances, the dispensing of the services during the probation period only on account of the fact that he was involved in a criminal case, was not proper application of mind by the authorities and the writ petitioner was seriously prejudiced on account of the action of the appellants, which has been correctly rectified by the Learned Single Judge by putting him back in service.

7. Resultantly, no ground has been made out to interfere in the well reasoned order passed by the Learned Single Judge and the present letters patent appeal is hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

14.03.2024
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No