

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

(216)

CWP-20414-2016

Date of Decision : April 05, 2024

Inder Singh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Geetika Sharma, Advocate and
Ms. Anju Bansal, Advocate, for
Mr. Sourabh Goel, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 06.09.2016 (Annexure P-12) by which, the contract period of the petitioner, who was working on the post of District Consultant (Sanitation & Hygiene) Jind, has been curtailed and the service of the petitioner has been dispensed with,

2. Certain facts needs to be noticed for the correct appreciation of the issue in hand.

3. The petitioner was appointed as District Consultant (Sanitation & Hygiene) on contractual basis with the Water and Sanitation Support Organization (WSSO), which organization is being run under the Chairmanship of Chief Secretary, Government of Haryana and was created

with an object to create awareness on Water Conservation and Sanitation in Rural areas of Haryana. The said appointment was made after inviting application and ultimately, the petitioner was selected and was appointed as a District Consultant and posted at Jind. The petitioner kept on working with the respondents and as per the conceded fact, the contract of the petitioner was upto 23.12.2016.

4. While working on the said post, certain complaints were received against working of the petitioner and those complaints were inquired into by the respondents through Additional Deputy Commissioner, Jind. The Additional Deputy Commissioner, Jind gave a report against the petitioner on 28.08.2016 and on the basis of the said report, the impugned order dated 06.09.2016 (Annexure P-12) was passed by which, the contractual period of the petitioner was curtailed and his services were dispensed with. The said order is under challenge in the present writ petition.

5. Learned counsel for the petitioner argues that in the present case, the action has been taken by way of punishment against the petitioner which is not permissible especially when, the petitioner was never associated with the enquiry conducted by the Additional Deputy Commissioner, Jind and further, before relying upon the report given by the Additional Deputy Commissioner, Jind, the same was not given to the petitioner for his comments and straightaway, the order dispensing his service was passed by curtailing his contractual period, which is arbitrary and illegal.

6. Learned counsel for the respondents, on the other hand, submits that the allegations alleged against the petitioner were enquired into and it is only after the fact that allegations were substantiated, the period of

engagement was curtailed by passing the impugned order dated 06.09.2016 (Annexure P-12), which is in accordance with the agreement entered into between the parties.

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

8. It is a settled principle of law that in case, any allegation is alleged against an employee, the said employee is to be given due opportunity to defend himself qua the said allegations. Once the respondents decided to enquire into the allegations, the petitioner should have been associated while conducting the enquiry into the allegations.

9. Further, the report of the Additional Deputy Commissioner, Jind dated 06.09.2016, should have been sent to the petitioner for his comments before relying upon the said report so as to pass the impugned order dated 06.09.2016 (Annexure P-12). Nothing has been shown that either the petitioner was associated in the enquiry process wherein, the Additional Deputy Commissioner, Jind enquired into the allegations or that the enquiry report which has been made the basis of passing of the impugned order, was ever supplied to the petitioner for his comments before passing the impugned order. It is a clear case of violation of rules of natural justice as due opportunity has not been given to the petitioner to defend himself.

10. It is not a case of simple termination of the service. It is also not a case that the contract of the petitioner had come to an end by the date the impugned order was passed. The contract of the petitioner subsisted till 23.12.2016 and the same has been curtailed in the month of September 2016 itself by passing the impugned order.

11. Keeping in view the above, the impugned order dated 06.09.2016 (Annexure P-12) cannot sustain in the eyes of law and is accordingly set aside.

12. Now the question arise as to what relief can be given to the petitioner in the facts and circumstances of the present case.

13. The petitioner was entitled to continue in service upto 23.12.2016 keeping in view the approval granted as per the contract between the parties. The petitioner's services were curtailed hence, though the order terminating the services of the petitioner has been set aside but, as the petitioner was only entitled to continue in service upto 23.12.2016, the petitioner will be treated in service upto the said date. The petitioner will also be paid the salary which he was getting at the time when his services were terminated upto to 23.12.2016.

14. At this stage, learned counsel for the petitioner submits that the petitioner was also not given the salary for the month of July and August 2016.

15. Let the said aspect be also verified by the respondents and in case, nothing is on record that the salary for the period July and August, 2016 has been paid to the petitioner, the same will also be paid to the petitioner while giving him the salary as directed hereinbefore.

16. Let the present order be complied with within a period of eight weeks of the receipt of copy of this order.

17. The present writ petition is disposed of in above terms.

April 05, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes