

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-18153-2024 (O&M)
Date of Decision: 05.08.2024

Parveen Kumar
.....Petitioner
Versus
State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Jangjit Singh Dahiya, Advocate for the petitioner.

Mr. Harish Nain, AAG Haryana.

Mr. Anurag Chopra and
Mr. Vardaan Seth, Advocates for respondent No.6

AMAN CHAUDHARY. J.

1. The prayer in the present petition is made for quashing the order terminating the services of the petitioner based on the enquiry report dated 27.12.2023.
2. As is apparent from the enquiry report, the same was against the petitioner and one Ravi Pannu, who had filed CWP-6821-2024, which came to be dismissed by this Court vide judgment dated 06.05.2024, relevant paras whereof read thus:

“First question which arises is, whether the writ petition will be maintainable against the Health and Family Welfare society. Nothing has come on record that the said society has come within the meaning of Article 12 of the Constitution of India and who is controlling the same. Once, the petitioner was working in the society, the same was registered as a society under the “Cooperative Societies Act” and as per the settled principle of law settled by the Hon’ble Supreme Court of India in Civil Appeal No.5466- 2002 titled as General Manager, The Kisan Sahkari Chini Mills Limited Sultanpur, U.P. vs. Satrughan Nishad and others, decided on 08.10.2003, no writ petition

is maintainable against the co-operative society...

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11. Merely, a society has framed the bye-laws it does not get colour of statutory authority. The bye-laws have only been framed to guide the society as to how the various works are to be executed. The said bye-laws do not entitle the society to be treated as State within the meaning of Article 12 of the Constitution of India.

12. Even otherwise, in the present case, the petitioner is not a regular employee but is a temporary employee. A temporary employee does not have any right to hold the post as only the employee, who has lien against any post can claim right to continue against the particular post. The benefits as envisaged under Article 311 of the Constitution of India will not be applicable upon a temporary employee.

13. Even otherwise, in the present petition, an enquiry has been conducted into the allegations alleged against the petitioner and on the basis of the said enquiry report, wherein, the allegations have been proved against him vide impugned order dated 31.01.2024 (Annexure P/30) has been passed. Once, the petitioner has been given an opportunity to submit his stand before the Enquiry Office and the Enquiry Officer has proved that embezzlement has been done by the petitioner by forging the receipts, the petitioner cannot be allowed to say that said enquiry report should be set aside so as to set aside the impugned order of termination of his services.

14. Further, before this Court, an affidavit has been filed by the petitioner by way of CM-7711-CWP-2024 and in para 2 of the said affidavit, the petitioner has admitted the fact that there was an embezzlement of funds of the society but submits that said embezzlement was done under the coercion of the higher authorities, who are the beneficiary of the financial transaction. Once, prima facie the petitioner has conceded even before this Court that embezzlement have done and the petitioner was part of the same, though, he was forced to do so, no ground for interference by this Court is made out and the present petition is accordingly dismissed.

15. It may be noticed that funds of the society have been embezzled and prima facie, the petitioner has conceded to the said facts, which have also been proved by the Enquiry Officer and the allegations are being alleged by the petitioner against the private respondents also whereas, the private respondents are denying the said allegations but once, prima facie in the enquiry report, the embezzlement has been found through fake receipts, which has come on record, the same needs to be inquired into as to whether any provisions of the IPC has been violated or not.

16. Let the respondent-Society, if not already made a

complaint, make a complaint to the police authorities and the police will investigate the matter on the said allegations under the supervision of an officer, not below the rank of Superintendent of Police of the said area. This Court will be informed about the investigation, which is to be done by the police by way of filing status report every six weeks till the said investigation is taken to its logical end.”

- 3. Mr. Dahiya, who was the counsel for the petitioner in the said case, admits that no challenge has been made thereto and also that pursuant to above, an FIR has been lodged by Civil Surgeon Sonipat, against the aforesaid and the petitioner, who has been granted anticipatory bail by this Court vide order dated 22.07.2024 in CRM-M-31896-2024.
- 4. In view of the above, the present writ petition stands dismissed.
- 5. Pending application, if any, stand disposed of.

(AMAN CHAUDHARY)
JUDGE

05.08.2024

Hemant

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