



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

CWP-6365-2016 (O&M)

Date of Decision:22.08.2024

Krishna Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Vaibhav Sharma, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G. Haryana.

Mr. Mayank Garg, Advocate for respondents No.2 to 4.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing/setting aside the orders dated 11.01.2016 (Annexure P-9), 15.09.2014 (Anneuxre P-5) and Enquiry Report dated 24.11.2014 (Annexure P-10).

2. Learned counsel for the petitioner submitted that petitioner was appointed as Sewadar/Peon on daily wage basis vide Annexure R-2/1 on 18.01.1995 and thereafter she had been working as Sewadar in the respondent-Board of Shree Mata Sheetla Devi Shrine Board (hereinafter to be called as 'Board') which is a religious place where devotees come to worship. The aforesaid respondent-Board is managed by the Municipal Corporation-Chief Administrator, and the aforesaid respondent-Board is created by a statute namely Haryana Shri Mata Sheetla Devi Shrine Act, 1991. He further submitted that on 08.09.2011 vide Annexure P-2, the petitioner was placed under suspension alongwith some other Sewadars on the ground of theft of



bundles of currency notes by the petitioner. Thereafter the petitioner was reinstated on 24.10.2011 vide Annexure P-3 but an enquiry was conducted in this regard on the direction of Chief Executive Officer, Shri Mata Sheetla Devi Shrine Board, Gurgaon. He submitted that an order has been passed on 15.09.2014 vide Annexure P-5 whereby the services of the petitioner have been terminated because of the aforesaid theft. He further submitted that the aforesaid termination order was passed without affording an opportunity of personal hearing to the petitioner and the order is stigmatic in nature and as such the same is liable to be set aside and quashed. He asserted that the aforesaid order of termination was passed prior to finalization of the enquiry which is Annexure P-10. He further submitted that now the petitioner has crossed the age of 60 years and cannot be reinstated in service but adequate compensation may be granted to her.

3. On the other hand, learned counsel appearing on behalf of the respondent-Board submitted that it is a case where the petitioner was appointed in the respondent-Board on 18.01.1995 vide Annexure R-2/1 on the basis of her application wherein the petitioner had stated that she is a widow and there is no other earning hand in her house and sought appointment in which the Chief Executive Officer, Shree Mata Sheetla Devi Puja Sthal Board, Gurgaon, directed that she be engaged on the post of Peon in this regard considering her request letter. He further submitted that thereafter she was appointed as Sewadar and while working as Sewadar, one day she committed theft of bundle of currency notes from a place of worship where a worshipper had visited and donated but she took away the aforesaid bundle of currency notes and did not deposit the same with the authorities. He further submitted



that the entire incident was captured in CCTV camera and was subjected to the enquiry as well. Thereafter a complaint was filed to the concerned authorities on 01.09.2011 complaining about the aforesaid theft and thereafter the investigation was initiated by the respondent-Board itself and the CCTV footage was retrieved. He further submitted that thereafter an Enquiry Officer was appointed on 01.11.2011 who gave an opportunity of personal hearing to the petitioner but she did not join the enquiry. However, since the petitioner did not join the enquiry in the meantime, the Chief Executive Officer, considering the nature of the duties of the petitioner and nature of the place where she was working being a place of worship as a temple thought it fit to terminate her services on 15.09.2014 (Annexure P-5). Thereafter the second enquiry officer again continued the enquiry on the basis of the CCTV footage and it was found that the petitioner had taken away the bundle of currency notes from the place of worship and did not deposit the same with the concerned authorities and the entire sequence of the incidents was captured in the CCTV Camera which was taken into consideration by the enquiry officer.

4. He further submitted that not only the present allegation of theft of currency notes is there but there is another allegation against the petitioner that she committed theft of three sarees which were donated by the worshippers to the temple in the year 2014. So far as argument raised by learned counsel for the petitioner that the order of termination is stigmatic in nature and an opportunity of personal hearing was required to be given to the petitioner is concerned, learned counsel for the respondent-board submitted that a perusal of the Annexure P-4 would show that the Naib Tehsildar, Surplus-cum-Enquiry Officer, Gurgaon, had given an opportunity of hearing



to the petitioner and she was directed to appear before the officer concerned on 27.06.2012 but the petitioner herself failed to appear. He further asserted that even otherwise also considering the place and the extraordinary circumstances so warranted, in case the petitioner was continued to perform her duties at the Temple then it would not have been in the interest of public at large who visit the place of worship as they donate money there and therefore due to the existence of acute special and extraordinary circumstances the services of the petitioner were terminated as the respondent-Board had lost confidence in the petitioner who was a Sewadar working on daily wages. He also submitted that the son of the petitioner is still working in the respondent-Board. While referring to the Annexure P-9, he submitted that it has been clearly recorded in the appellate order that the theft was committed by the petitioner and the same was duly verified from the footage of CCTV Camera. He also submitted that now the petitioner has attained the age of 60 years and otherwise also cannot be reinstated in service and so far as the prayer of the petitioner for grant of compensation is concerned, the petitioner has not even prayed for the same in the present petition.

5. I have heard learned counsels for the parties.

6. The petitioner was appointed as Sewadar on daily wage basis vide Annexure R-2/1 on 18.01.1995 in the office of respondents-Board. On the basis of complaint of theft, an enquiry was conducted by the Naib Tehsildar, Surplus-cum-Enquiry Officer, Gurgaon and the petitioner was directed to appear before the aforesaid enquiry officer but as per reply filed by the respondents-Board, the enquiry could not be completed due to transfer of the Enquiry Officers from Gurgaon to other different places and thereafter the



enquiry was finalized by Sh. Sanjeev Singla, Tehsildar, Gurgaon and he submitted his enquiry report dated 24.11.2014. As per the reply, during the pendency of the enquiry, another complaint was received by the respondents-Board which was given by one Chander Pal Sharma, Junior Engineer that on 02.09.2014, the petitioner misappropriated three sarees wrapped in a *chunni* which were donated to the temple and regarding the same a video footage is also available with the respondent-Board. The earlier allegation against the petitioner was with regard to the theft of bundle of currency notes from a place of worship, regarding which the enquiry was conducted and before the enquiry was finalized, the Enquiry Officer was transferred and in the meantime, another complaint was received as aforesaid with regard to theft of three sarees. Therefore, the respondent-Board considering the extraordinary special circumstances and the nature of the place which was a place of worship terminated the services of the petitioner with immediate effect on 15.09.2014 vide Annexure P-5 and as per learned counsel for the respondent-Board the action had to be taken forthwith because the respondent-Board had lost confidence in the petitioner and considering the fact that the place of work involved here is a place of worship where in routine, different types of donations are made, the services of the petitioner were terminated immediately.

7. During the course of arguments, learned counsel for the respondent-Board has also displayed the video which was retrieved by the respondent-Board pertaining to the aforesaid theft of bundle of currency notes which was also shown to the learned counsel for the petitioner.

8. An argument was raised by learned counsel for the petitioner that no



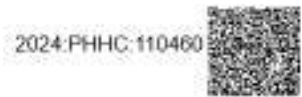
opportunity of personal hearing was given to the petitioner whereas as per Annexure P-4, an opportunity was given by the earlier Enquiry Officer but as per learned counsel for respondent-Board, the petitioner failed to join enquiry and the enquiry could not be completed by him because of his transfer. Another argument raised by learned counsel for the petitioner was that the termination order of the petitioner is stigmatic as no regular enquiry has been conducted against the petitioner.

9. A perusal of the impugned order (Annexure P-5) would show that service of the petitioner has been terminated on the basis of the order passed by the Commissioner, Municipal Corporation-cum-Chief Administrator of the respondent-Board. It is a case of learned counsel for the respondents-Board that it was due to extraordinary special circumstances where considering the place of worship where in routine the donations are being made, it was necessary to terminate the services of the petitioner. In the present case, the petitioner was appointed on daily wage basis and she was facing enquiry with regard to the theft of currency notes which were donated by a worshipper in the temple regarding which there is a CCTV footage which was retrieved by the respondent-Board. However, before the enquiry could be completed, another complaint was received by the respondent-Board with regard to theft of three sarees which were also donated by one of the worshippers. The respondent-Board decided to terminate the services of the petitioner considering the extra-ordinary special circumstances that both the incidents have been recorded in CCTV Camera footage and have been considered by the respondent-Board. After passing of the order of termination, the petitioner had also filed an appeal before the Principal Secretary to Government of



Haryana, Urban Local Bodies, Department, Chandigarh which was dismissed vide Annexure P-9. A perusal of the same would show that it was so observed by the Appellate Authority that the act of commission of theft was detected by the supervisory staff of the respondents-Board and the factum was verified from the footage of CCTV Camera. In this way, as per the Appellate Authority, the theft has been duly verified from the footage of CCTV Camera and considering the gravity of the offence committed by the petitioner, the appeal was dismissed by the Appellate Authority. Learned counsel for the respondent-Board argued that in such a situation where two times theft was detected and footages were retrieved from the CCTV Camera, the temple administration had lost confidence in the petitioner who was working on daily wage basis and it was not only in the interest of temple management but also in the interest of public at large who are the worshippers who donate money and different items to the temple, it became necessary to terminate the services of the petitioner.

10. The prayer made in the present writ petition is for seeking quashing of the order of termination (Annexure P-5) and order of Appellate Authority (Annexure P-9) and the petitioner has now crossed the age of 60 years. Therefore, reinstatement cannot be ordered as she has crossed the age of 60 years. The only prayer made by learned counsel for the petitioner during the course of arguments is with regard to grant of compensation. However, no such prayer has been made in the present petition. Therefore, without observing anything on merits, liberty is granted to the petitioner that in case the petitioner wants to raise any claim with regard to compensation, then she may do so by seeking any other alternate remedy by filing any civil suit or any



other proceeding strictly in accordance with law.

11. Apart from the above, the subject matter of the present case also involves disputed questions of fact which cannot be gone into by this Court in exercise of its powers under Article 226 of the Constitution of India.

12. In view of the aforesaid facts and circumstances, the present petition is dismissed with a liberty to seek any alternate remedy available to her strictly in accordance with law.

(JASGURPREET SINGH PURI)
JUDGE

22.08.2024

<i>shweta</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No