



As per the Appointment Order dated 04.10.2011 (Annexure P-1), the petitioner was to work on probation for a period of one year which period can be extended upto maximum 3 years after the joining of the petitioner but before expiry of one year of probation, a report was sought with regard to work and conduct of the petitioner and the Head of the Department where the petitioner was working, vide impugned letter dated 11.06.2012, copy of which has been appended as Annexure P-21, recommended that work and conduct of the petitioner is not satisfactory and the continuation of the petitioner in service will not be useful for the Institution.

Thereafter, keeping in view the recommendation of the Head of the Department, the Vice Chancellor of respondent-University passed the impugned order dated 19.06.2012 (Annexure P-22) terminating the services of the petitioner during the period of probation keeping in view the terms and conditions of the Appointment coupled with the Statute of the Guru Nanak Dev University Calendar Volume-1, 2007, which order is approved in the meeting of the Syndicate dated 25.06.2012 (Annexure P-23). The said orders terminating the services of the petitioner are under challenge in the present petition.

Learned counsel for the petitioner submits that the decision was to be taken by the Syndicate whereas, the Vice Chancellor had taken the decision to terminate the services of the petitioner vide order dated 19.06.2012, copy of which has been appended as Annexure P-22 though, the said decision was ratified by the Syndicate vide order dated 04.07.2012 in view of their meeting held on 25.06.2012 hence, the decision taken by Vice

Chancellor on 19.06.2012 (Annexure P-22) was taken by the authority not competent to do so and subsequent ratification of the said order by the Syndicate is of no avail.

Learned counsel for the petitioner further submits that the petitioner was wrongly relieved during the period of probation by terming his services as unsatisfactory whereas, the petitioner performed his duties to the utmost satisfaction of the Institution concerned and the acceptance of the recommendations of the Acting Principal qua the work and conduct of the petitioner during the period of probation by the respondent-University is also arbitrary and illegal and contrary to the provisions of the Guru Nanak Dev University Calendar, 2007.

Learned counsel for the petitioner argues that as per the Guru Nanak Dev University Calendar, the University can only terminate the services of an employee who is on probation with a definite recommendation by the Head of the Department or the Controlling Officer under whom the probationary Officer is working and the University can only take such recommendations into consideration while passing appropriate order with regard to dispensing the services of the said employee or to revert him to a former post, in case, the employee concerned has been promoted by way of promotion.

Learned counsel for the petitioner submits that there is no definite recommendation in case of the petitioner by the Institution concerned where the petitioner was working hence, order dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22) are liable to be set aside.

Learned counsel for the petitioner submits that no reason has been mentioned by the respondent No.-4 Institution in the letter dated 11.06.2012 (Annexure P-21) as to why, the work and conduct of the petitioner has not been found satisfactory and in the absence of any reasons mentioned, the said letter could not have been accepted by the respondent-University so as to terminate the service of the petitioner.

Learned counsel for the petitioner further submits that by mentioning that the work and the conduct of the petitioner is not satisfactory, the order/recommendation becomes stigmatic in nature hence, the recommendation dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22) are liable to be set aside.

Learned counsel appearing on behalf of the University submits that it is a conceded position between the parties that the petitioner was working on probation and during the period of probation, the services of the petitioner have been dispensed with and that to by following the Statutes of Guru Nanak Dev University.

Learned counsel for the respondent-University further submits that as the petitioner was working with the respondent No.-4 Institute, the Principal of the said Institute regard to the work and conduct of the petitioner not being satisfactory and with the clear recommendation that continuation of the services of the petitioner will not be useful for the institution, which recommendation has been taken into account while passing order dated 19.06.2012, copy of which has appended as Annexure P-22, which order of the Vice Chancellor has been approved by

the Syndicate vide decision dated 25.06.2012 (Annexure P-23) hence, no grievance can be raised by the petitioner in this regard.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is a settled principle of law that an employee, who is on probation has to be evaluated by the employer and in case, it is found that work and conduct of the said employee is satisfactory, he/she should be allowed to continue in service failing which, the action can be taken by either dispensing his/her services or to revert him/her to the original Post from where he/she has been promoted on the post in question. The Rules of the Guru Nanak Dev University with regard to the probation are as under:-

*"Probation*

*31.1 Except, when otherwise provided in the Act or Statutes or in the special terms of appointment on fixed tenure or contract or deputation which will be governed by the terms of that contract or deputation, all employees of the University shall on appointment to any service of the University remain on probation for a period of one year which period may be extended or reduced by the competent authority. Provided that this provision shall not apply to such employees as are on Foreign Service with the University. The period of temporary appointment of a person who is subsequently appointed in a substantive capacity shall be counted towards his probationary period.*

*"31.2 The Head of the Department or the controlling officer of an employee who is serving on probation shall send to. the appointing authority, before the date of the expiry of his probationary period, a report about his work and conduct with a definite recommendation for his confirmation in the service or otherwise.*

*"31.3 If during his period of probation, the work or conduct of an employee is, in the opinion of the appointing authority not satisfactory, it may dispense with his services or revert him to his former post, if any, or extend his period of probation and thereafter pass such orders as would have been passed by it on the expiry of the first period of probation.*

*Provided that the total period of probation, including extension, if any, shall not exceed three years if there is a permanent vacancy against which the employee can be confirmed. If it is decided to dispense with the services of an employee, it shall suffice to inform him that his services are no longer required, and such an employee or prior notice."*

A bare perusal of the above reproduction would show that with regard to the probationer, the Head of the Department or the Controlling Officer under whom the employee is serving needs to make a definite recommendation about the work and conduct of the employee concerned and on the basis of the said recommendation, the University is to pass the appropriate order.

In the present case, the Acting Principal under whom the petitioner was working had made a specific recommendation qua the work and conduct of the petitioner not being satisfactory and the continuation of the petitioner was termed as 'Not in the interest of the Institution'. The Vice Chancellor of the University, considered and accepted the said recommendation dated 11.06.2012 (Annexure P-21) and passed the impugned order dated 19.06.2012 (Annexure P-22) terminating the services of the petitioner. The Syndicate in its meeting held after 7 days of the passing of the impugned order dated 19.06.2012, approved the order passed

by the Vice Chancellor. That being so, all the procedures laid down in the Statute have been followed by the University. Though, the services of the petitioner were terminated by the Vice Chancellor before the approval given by the Syndicate but once, the competent authority i.e. the Syndicate approved the action of the Vice Chancellor, no grievance can be raised by the petitioner keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No.2228 of 2006 titled “***Maharashtra State Mining Corporation Vs. Sunil***”, decided on 24.02.2006

The relevant paragraph of the said judgment is as under:-

*“11. In the present case, the Managing Director's order dismissing the respondent from the service was admittedly ratified by the Board of Directors on 20th February 1991, and the Board of Directors unquestionably had the power to terminate the services of the respondent. On the basis of the authorities noted, it must follow that since the order of the Managing Director had been ratified by the Board of Directors such ratification related back to the date of the order and validated it.*

*12. Reliance on the decision in Krishna Kumar v. Divisional Assistant Electrical Engineer (1979) 4 SCC 289 (supra) by the respondent is misplaced. In that case, the appellant had been appointed by the Chief Electrical Engineer, the departmental head. He was removed from service by the Divisional Assistant Engineer. The question for determination was whether the appellant had been removed from the service by an authority subordinate to that which had appointed him in violation of Article 311(1) of the Constitution. Having considered the affidavits filed, the Court came to the conclusion that the appellant had been removed from the service by an officer who was subordinate in rank to the officer by whom he*

*was appointed. The Divisional Assistant Engineer was, subsequent to the appellant's appointment, given the power to make an appointment to the post which the appellant held. It was urged by the respondent State that he, therefore, had the power to remove all persons holding that post. The submission was rejected on the grounds first that the right under Article 311(1) is vested in an employee on the date of his appointment and that subsequent authorisation of any subordinate officer would not confer the power on such subordinate officer to remove the employee. Secondly, merely because the subordinate officer was vested with the power to appoint would not make him equal in rank with the officer making the appointment. In other words, the Divisional Engineer did not cease to be subordinate to the Chief Electrical Engineer merely because the latter's power to make appointment to the post had been delegated to him.”*

Thereafter, the Hon’ble Supreme Court of India in Civil Appeal No.5070 of 2008 titled as “***National Institute of Technology and anr. Vs. Pannalal Choudhary and anr.***” decided on 01.07.2015 has again reiterated that order passed by incompetent authority can be validated by subsequent ratification by the competent authority. Relevant Paras of the said judgment is as under:

*“40. Applying the aforementioned law of ratification to the facts at hand, even if we assume for the sake of argument that the order of dismissal dated 16.08.1996 was passed by the Principal and Secretary who had neither any authority to pass such order under the Rules nor there was any authorisation given by the BOG in his favour to pass such order yet in our considered view when the BOG in their meeting held on 22.08.1996 approved the previous actions of the Principal and*

*Secretary in passing the respondent's dismissal order dated 16.08.1996, all the irregularities complained of by the respondent in the proceedings including the authority exercised by the Principal and Secretary to dismiss him stood ratified by the Competent Authority (Board of Governors) themselves with retrospective effect from 16.8.1996 thereby making an invalid act a lawful one in conformity with the procedure prescribed in Rules.*

*41. In such circumstances, the respondent's grievance that the dismissal order had not been passed by the competent authority, i.e., the BOG is no longer survived.”*

Hence, once the Syndicate i.e. the competent authority approved the order of the Vice Chancellor dispersing the services of the petitioner vide Resolution dated 25.06.2012 (Annexure P-23), the petitioner cannot be allowed to say that his services have been terminated by an authority not competent to do so.

With regard to the argument of the learned counsel for the petitioner that the recommendations were made by the Acting Principal on 11.06.2012 (Annexure P-21) without even going through the orders of the earlier officiating Principal on 29.03.2012 wherein, the work of the petitioner has been appreciated, it may be noticed that the order dated 29.03.2012 (Annexure P-19) is reproduced as under:-

*“TO WHOM IT MAY CONCERN*

*It is certified that Mr. Nakul Kundra, who has been working here as Assistant Professor in English w.e.f. 13.10.2011, bears good moral character.  
His work and conduct is quite satisfactory.”*

A bare perusal of the above would show that the officiating Principal is stating that the petitioner bears a good moral character and his work and conduct is quite satisfactory. That is only an experience certificate which has been given to the petitioner, as demanded by him. An Experience Certificate given cannot be treated as an impediment to correctly assess the work and conduct of the petitioner by the authorities concerned so as to ensure as to whether the continuation of the petitioner in service will be in the interest of the Institution or not.

The recommendations of the Principal of the Institute on a specific issue whether, the probation of the petitioner needs to be extended or the services of the petitioner needs to be confirmed clearly stated qua the work and conduct of the petitioner not being satisfactory. There has to be difference between an Experience Certificate and actual opinion of the Principal concerned qua the work and conduct of an employee so as to decide as to whether the service of the employee concerned needs to be confirmed. This fact shows that the Institution was not against the petitioner as, he was given a good experience certificate hence, the argument that the Institution was biased against the petitioner so as to terminate his services cannot be accepted.

Further, the allegations have been alleged by the petitioner against the respondent No.5. It may be noticed that the impugned order has been passed by the University and nothing has come on record that either the Vice Chancellor or the Syndicate, were inimical to the petitioner in any manner. Once, the competent authority also formed a view on the basis of the recommendation of respondent No.5 the work and conduct of the

petitioner was not satisfactory during the period of probation, the impugned order dated 19.06.2012 (Annexure P-22) dispensing the services of the petitioner by the respondent-University cannot be set aside merely because of the apprehension of the petitioner that respondent No.5 was inimical to him.

Further, the argument of the learned counsel for the petitioner is that the impugned orders dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22) are stigmatic in nature. The said argument is incorrect in view of the language of the orders dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22). No allegation has been alleged against the petitioner in the said orders so as to terminate his services. It has only been mentioned that the work and the conduct of the petitioner is not satisfactory and his continuation in service will not be useful for the Institution. These observations cannot be termed as stigmatic in nature. No aspersion has been caused on the petitioner hence, it cannot be said that the orders dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22) are stigmatic in nature.

No other argument has been raised.

No ground is made out for interference by this Court in the present case.

Accordingly, the present petition is dismissed.

Pending application, if any, also stands disposed off.

20-08-2024  
Sapna Goyal

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

NOTE: Whether speaking: YES/NO  
Whether reportable: YES/NO