

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102+209)

CM-2634-CWP-2024 in/and
CWP-7383-2018
Date of Decision : February 22, 2024

Arun Kumar

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Lalit Kumar Narang, Advocate, for the applicant-petitioner.
Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-2634-CWP-2024

Present application has been filed for amendment in the head-note as well as prayer clause of the writ petition.

Notice of the application to the counsel opposite.

Mr. Harish Rathee, learned Sr. Deputy Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and the amended writ petition is taken on record.

CWP-7383-2018

1. In the present writ petition, the grievance of the petitioner is that while working on contract basis on the post of Physiotherapist, on the basis of a complaint filed by his wife as well as his brother-in-law keeping in view the matrimonial dispute between the petitioner and his wife, the services of the petitioner have been terminated.

2. Learned counsel for the petitioner submits that keeping in view a false allegation alleged under Section 498-A of the IPC, the petitioner was arrested and was granted bail within a period of three days but taking the said arrest and registration of an FIR into account, the services of the petitioner have been terminated though as of now, the petitioner has already been acquitted of the said allegations.

3. Learned counsel for the petitioner further submits that the second allegation dated 27.06.2017 (Annexure P-11) on the basis of which the respondents have taken an action to terminate the services of the petitioner was that the petitioner was working after the duty hours in a charitable hospital but the said allegation was alleged earlier also and the petitioner filed a reply (Annexure P-7) and the reply was found satisfactory and thereafter, the petitioner was given extension in service, a copy of which has been appended as Annexures P-1 to P-15 but thereafter once again, on the same allegations, the services of the petitioner have been terminated, which is arbitrary and illegal.

4. Learned counsel for the respondents, on the other hand, submits that once there was an FIR against a contractual employee who was working on the post of Physiotherapist at Civil Hospital and he was also found working in another institution, the Department was perfectly within

jurisdiction to take appropriate action keeping in view the terms and conditions of the appointment.

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

6. Before proceeding further, it may be noticed that while issuing notice of motion, the operation of the impugned order dated 01.03.2018 (Annexure P-13) was stayed and the petitioner is still continuing in service.

7. As far as on the merits of the case, the petitioner has already been acquitted in the criminal proceedings initiated by his wife under Section 498-A of the IPC and therefore, as of now, there is nothing pending against the petitioner.

8. With regard to the working of the petitioner in a charitable institution after the duty hours, nothing has come on record that the petitioner was charging any fee or was getting any salary from the said institution which was a charitable. In case, an employee works pro bono for the benefit of the patient in a charitable institute, it cannot be said that the employee concerned is availing two jobs at the same time.

9. Further, on the same allegation, the show cause notice was issued to the petitioner and keeping in view the reply given by him, the same was accepted by the respondents and the contract of the petitioner was extended. Once a due decision was taken to drop the said charge, the same could not have been brought again to terminate the services of the petitioner.

10. Keeping in view the above, the order dated 01.03.2018 (Annexure P-13) terminating the services of the petitioner, cannot be sustained in the eyes of law and is accordingly set aside.

11. As the petitioner is continuing in service on the said post, he will be allowed to continue in service till the work of the post on which the petitioner is working, exist and the conduct of the petitioner remain satisfactory.

12. In case, any of the benefit has not been paid to the petitioner due to the pendency of the present petition including his salary as entitled for the post on which he was working, the same be also released to him within a period of eight weeks of the receipt of copy of this order.

13. The present writ petition is allowed in above terms.

February 22, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes