

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2024:PHHC:024062-DB

LPA-889-2022 (O & M)
Date of Decision: 21.02.2024

Bhagwan Dass

.....Appellant(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. G.S. Bal, Sr. Advocate,
with Mr. Laxman Choudhary, Advocate,
for the appellant.

Mr. Saurav Khurana, Addl. A.G., Punjab.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

CM-2139-LPA-2022

1. Allowed as prayed for.

CM-5413-LPA-2023

2. Application for placing on record copies of petition and written statement in criminal case in compliance of the interim order dated 11.12.2023 as Annexures A-1 and A-2 is allowed, subject to all just exceptions.

3. The same are taken on record.

4. CM stands disposed of.

Main Case

5. Consideration in the present letters patent appeal, which is barred in 1475 days in filing of the same, is of the order dated 01.08.2018 passed by the learned Single Judge in CWP-18843-2018, Bhagwan Dass vs. State of Punjab and others whereby, the learned Single Judge did not interfere in the order of

which was done during his period of probation. The writ petitioner-appellant had also filed application for recall of the said order dated 01.08.2018, which was also dismissed on 03.09.2021 and, therefore, we allow CM-2140-LPA-2022 for condonation of delay of 1475 days in filing the appeal.

6. The reasoning which weighed with the learned Single Judge was that the writ petitioner-appellant had been appointed as a Clerk in the District Consumer Disputes Redressal Commission, Nawanshahr on 23.06.2015 (Annexure P-1) and was on probation for a period of 2 years, which was further extendable by a period of one year. His probation period was extended vide order dated 17.07.2017 (Annexure P-2) while noting that there was an FIR No.289 dated 30.09.2016 under Section 419 IPC lodged against him and his wife. Resultantly, vide the impugned order dated 07.08.2017 (Annexure P-4), his services were terminated by the President of the District Consumer Disputes Redressal Forum, SBS Nagar. What further weighed with the learned Single Judge was that the writ petitioner, without applying through proper channel and obtaining prior permission from his employer, had applied for the post of Clerk in the District Consumers Disputes Redressal Forum, Bathinda alongwith his wife. Both of them had taken the type test and he had saved the type test in the name of his wife Kanwaljit Kaur. The addresses were found to be identical and the identity as such of Kanwaljit Kaur was sought to be concealed by giving her father's name. Resultantly, the learned Single Judge found that it was a case of moral deprivation and cheating by impersonation and such misconduct was not acceptable in a judicial organization and, thus, the termination was held to be justified.

7. Apparently, the petitioner had filed an appeal i.e. LPA-1698-2018 before the co-ordinate Bench, which was dismissed as withdrawn on

“After the matter was heard at some length, learned counsel for the appellant made a request to permit withdrawal of the Letters Patent Appeal. Further request was made that the observation made by the learned Single Judge may not influence the investigation or the subsequent proceedings based thereupon.

The prayer made is allowed.

Appeal stands dismissed as withdrawn.

However, it is made clear that the investigating agency and any subsequent proceedings thereto shall be undertaken without being influenced any observation made by the learned Single Judge.”

8. The appellant and his wife had also challenged the lodging of the FIR by filing CRM-M-41313 of 2017, which apparently was quashed by the Single Bench on 27.02.2020, which has been placed on record as Annexure A-3 wherein, a finding has been recorded that there was no definite evidence on the record that the appellant had ever impersonated his wife and the allegations against the appellant are hypothetical and are not based on any definite/concrete evidence.

9. Bolstered by the said order, he filed the application for recalling of the order dated 01.08.2018 on the ground that the FIR had been quashed and it had resulted into discharge of proceedings by the Judicial Magistrate Ist Class. The learned Single Judge dismissed the application by coming to the conclusion that the standard of proof in the departmental proceedings or the conduct/misconduct for a probationer stands on a different footing and it is for the employer to evaluate the conduct of an employee and if it is found not upto the mark, the services can be dispensed with. It was noticed that appearing in the said examination without seeking permission from the employer i.e. District Consumer Disputes Redressal Forum SBS Nagar to help his wife itself was

It was also noticed that in the internal inquiry, it was found that both of them had sat next to each other and the applicant-appellant had not signed on the type sheet to help his wife who was also giving the said examination and, therefore, noting that the appeal had also been withdrawn, no reason as such was found to review the order dated 01.08.2018.

10. In such circumstances, we are of the considered opinion that the findings which are recorded by the learned Single Judge are well justified and are based on correct appreciation of the position of law governing probationers. The argument of the senior counsel for the appellant that having earned acquittal as such in the criminal proceedings, he has been wrongly terminated and the service record was upto the mark and, therefore it is a punitive order as such is of no help.

11. We have examined the order dated 07.08.2017 (Annexure P-4) whereby his services were dispensed with. Apart from the allegations in the FIR, it was also noticed that being a regular employee, he had to seek permission to sit in the exam. Apparently, he never applied through proper channel and nor disclosed about the said fact. It was also noticed that the appellant appeared in the written test at Roll No.1026 but typed and saved the test in the name of his wife Kanwaljit Kaur at Roll No.1025 and in such circumstances, the learned Single Judge has held that they were sitting together. The purpose as such was only to help his wife who would be a beneficiary in the test. The conduct of a government employee, especially who is working in a judicial organization being statutory body governed by the Consumer Protection Act, 1986, is to be above board. The unsuitability for the post of the Clerk was, thus, rightly relied upon by the learned Single Judge in view of Clause 2 of the appointment letter dated 23.06.2015 to dispense with his service during his

the services are liable to be terminated at any time without assigning any reason and without any prior notice. The appellant had to maintain a standard being a probationer which had to be commensurate with the responsibility which had been given to him in the organization in which he was serving.

12. In such circumstances, the order dated 07.08.2017 (Annexure P-4) dispensing with the services of the appellant and upheld by the learned Single Judge vide order dated 01.08.2018 cannot be said to be unjustified and accordingly, the present letters patent appeal stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

21.02.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No