



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1210-2022 (O&M)
Date of Decision:- 20.05.2024

Makhan Lal Saini
...Appellant(s)
Versus
State of Haryana and others
...Respondent(s)

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

Present: Mr. Ravinder Malik (Ravi), Advocate, for the appellant.
Mr. Deepak Balyan, Additional Advocate General, Haryana.

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

CM-2918-LPA-2022

For the reasons mentioned therein, the delay of 270 days in filing the appeal is condoned. The application stands disposed of.

LPA-1210-2022

1. The consideration in the present appeal is to the order dated 15.12.2021 passed by the learned Single Judge dismissing CWP-17259-2021 on the ground that if the employer did not extend the contract period of the employee, then there was element of not being satisfied with the work and conduct of such an employee and, therefore, it could not be exaggerated and blown out of proportion to term such an action as stigmatic in nature. Resultantly, the order dated 12.08.2021 (Annexure P-15) dispensing with the services of the appellant-writ petitioner on 30.06.2021 was given the stamp of validity.

2. The learned Single Judge was also swayed by the fact that an earlier writ petition filed by the writ-petitioner was disposed of as having not been pressed and, therefore, the writ-petitioner could not come to the Court again



seeking re-instatement in service and challenging the order rejecting his representation dated 19.07.2021. Even the employer, while keeping in view the appellant-writ petitioner's antecedents, had decided not to extend his period of contract after 30.06.2021. However, his claim for five days' salary from 25.06.2021 to 30.06.2021 had been accepted.

3. It is not disputed that the appellant-writ petitioner as such was appointed on 20.12.2017 (Annexure P-1), though purely on contract basis as Assistant Seed Production Officer for a period of one year at DC Rates of Rs. 16,000/- consolidated salary. Clause No. 2 of the appointment letter further provided that it was only a stop gap arrangement till the regular candidate from the Haryana Staff Selection Commission was made available or the post was in existence or till the work was required. Apparently, the remuneration as such was enhanced from Rs. 16,000/- to Rs. 35,400/- on 25.07.2018 (Annexure P-3). Vide communication dated 11.06.2021 (Annexure P-2), the appellant-writ petitioner's contract was extended for another six months. During the pendency of the contract itself, his services were dispensed with on 25.06.2021 by the stigmatic order as such (Annexure P-11) pursuant to the report submitted by the Committee constituted by the Regional Manager, Haryana Seeds Development Corporation Limited, Umri, Kurukshetra. The said order reads as under:-

“After considering the report submitted by the Committee, comments of the RM, Umri as well as your reply to the Memorandum dated 13.05.2021 which is not found satisfactory, as you are found fully responsible for conducting fake inspection of fields and intake of fake raw seed from fake seed growers. Therefore, the services of Sh. Makhan Lal Saini, ASPO (on contract basis) are hereby dispensed with w.e.f. 25.06.2021.”



4. The appellant-writ petitioner alongwith another employee, namely, Rajiv Kumar, who was similarly situated, approached this Court by filing two separate writ petitions i.e. CWP-11779-2021 and CWP-12206-2021 respectively challenging the orders of dispensing with their services. The said writ petitions were disposed of as having not been pressed vide order dated 19.07.2021 passed by another Single Bench on an undertaking apparently given on the first day of hearing by the counsel for the Corporation keeping in view the fact that the order was stigmatic as such and, therefore, in case any representation was received the same would be processed and decided by passing an appropriate speaking order. The relevant part reads as under:-

“Learned counsel for the petitioner(s) argues that the order terminating the services of the petitioner(s) was stigmatic and by considering the said argument, notice of motion was issued.

Today, learned senior counsel for the respondents-Corporation submits that the impugned order be treated as withdrawn and as the term of the services of the petitioner(s), keeping in view the contract, has already expired, hence, in case the petitioner(s) have any claim for the salary or any other admissible monetary benefit for any period before the expiry of their contract, let them file a representation for the said claim, which claim will be considered and in case any salary or any other admissible monetary benefit is yet to be released in favour of the petitioner(s), the same will be released.

Learned senior counsel for the respondents-Corporation further submits that any allegations mentioned in the impugned order, which stands withdrawn, will not come in the way of the petitioner(s) as far as the respondents are concerned.

Learned counsel for the petitioner(s) submits that they do not wish to press this petition any further as the impugned orders have been withdrawn and in case, any salary of the petitioner(s) or any other admissible monetary benefit is still due to them keeping in view



the fact that the impugned orders have been withdrawn, the petitioner(s) will file representation immediately claiming the same.

Learned senior counsel for the respondents submits that in case any representation is received from the petitioner(s), the same will be processed and decided by appropriate authority by passing appropriate speaking order within a period of four weeks and in case, the petitioner is found entitled for any monetary benefits, the same will also be released to the petitioner(s) within a period of four weeks thereafter.

Learned counsel for the petitioner(s) submits that as the impugned orders dated 25.06.2021 have been withdrawn and the petitioner(s) have been given liberty to file a representation claiming any monetary benefit, which according to them is yet to be released to them and the respondents have undertaken to decide the said representation in a time bound manner, the petitioner(s) do not wish to press these petitions any further and the petitions may be disposed of having been not pressed.

Ordered accordingly."

5. The representation was then moved on 19.07.2021 seeking the relief of joining the service and paying the salary for the intervening period. Instead of rectifying the earlier error as such, the Managing Director, Haryana Seeds Development Corporation Limited, Panchkula further compounded the issue by passing the following order on 12.08.2021:-

*"No. HSDC/Estt./F-EA-IV/2021/11956-57
Dated:- 12.08.2021*

*Sh. Makhan Lal Saini S/o Sh. Partap Singh Saini,
R/o Ward No. 24, Village Basti Chanarthal,
Thanesar, District Kurukshetra, Haryana.*

Subject:- Regarding representation.

This has reference to your representation received on dated 20.07.2021 on the subject cited above.

In this regard, it is informed that your representation has been examined. After considering the unsatisfactory performance report received from RM, HSDC, Umri and your antecedent, it has decided not to further extend your contract after 30.06.2021.



However, your claim with regard 5 days salary i.e. w.e.f. 25.06.2021 to 30.06.2021 has been accepted.”

6. A perusal of the above order would, thus, go on to show that instead of just simply relieving the contractual employee and paying him salary for the five days of the balance term of the contract, the removal as such was on account of the unsatisfactory performance report received from the Regional Manager and also commenting upon the antecedents without even holding any enquiry, was, thus, stigmatic on the face of the record. Apparently, the same was even in violation of the principle of natural justice, wherein there was a reference to the report submitted by the Committee to the Regional Manager to the effect that the appellant-writ petitioner was responsible for conducting fake inspection of fields and intake of fake raw seeds. The contractual employee as such may not have any right to continue, but as noticed above, his services could have been dispensed with as he had only five days left for his tenure to expire. It is his categorical case that similarly situated persons are still carrying on in their services.

7. It is in such circumstances, the Coordinate Bench had directed on 05.12.2023 that compensation of Rs. 5 lacs be paid to the appellant-writ petitioner as his services had been terminated twice by passing stigmatic orders. The State counsel has instructions that it is not in a position to comply with the said order. We are of the considered opinion that keeping in view the fact that the appellant-writ petitioner has been serving for more than four years before his services were dispensed with without holding an enquiry and the order passed is stigmatic twice over, the orders as such would not be sustainable. It has also been brought to our notice that commendation certificate dated 22.03.2019 (Annexure P-4) was also issued to the appellant-



writ petitioner by the Regional Manager for the year 2018-2019 for doing commendable work and the fact that his work was found to be satisfactory as per the certificate dated 21.12.2020 (Annexure P-16). However, keeping in view the fact that the appellant-writ petitioner is the contractual employee, we are of the considered opinion that the relief of being put back in service cannot be granted at this stage. However, in the manner in which the proceedings have been conducted against the appellant-writ petitioner, for that we feel he can be adequately compensated.

8. Keeping in view the amount as such which was being drawn by the employee @ Rs. 35,400/-, we direct the compensation to be paid while keeping in mind the law laid down by the Apex Court in ***Executive Committee of Vaish Degree College, Shamli Vs Lakshmi Narain***, AIR (1976) SC 888 and ***Smt. J. Tiwari Vs Smt. Jawala Devi Vidya Mandir and others***, 1979 (4) SCC 160, wherein the claim for re-instatement by the Principal was converted by the High Court into a decree for damages denying the relief of re-instatement on account of the fact that it was a contractual employment.

9. The Apex Court in ***Dipak Kumar Biswas Vs. Director of Public Instructions and others***, (1987) 2 SCC 252 had also granted damages as such for three years' salary and allowances to be paid at the rates prevalent at the time of termination.

10. The Apex Court in ***Kailash Singh Vs Managing Committee, Mayo College, Ajmer & others***, 2018(18) SCC 2016 examined the issue of determination of compensation that had to be paid to the employees while keeping in mind that no inquiry had been done. Resultantly, it was held that seeking restoration of services by way of specific performance of the contract



of services would not be an appropriate remedy and damages would be the right remedy. While relying upon a plethora of judgements on the said principle, the Apex Court turned to the issue of compensation. Resultantly, it was held that the principle of awarding adequate compensation in the form of back-wages after keeping in mind the aggravating and mitigating circumstances would, thus, have to be observed and the amount cannot be measly, nor a bonanza. Resultantly, the order of the High Court, whereby compensation had been awarded equivalent to the five years of salary on the basis of the last pay and allowances drawn was modified keeping in mind the employees had occupied the premises of the educational institution. The benefit of Rs. 25 lacs was, thus, given in the case of one employee and Rs. 18 lacs in the case of the other. The said principles can be kept in mind for the decision of the present case.

11. In such circumstances, we are of the considered opinion that the finding as such recorded by the learned Single Judge could not be sustainable to the extent keeping in view the laid down by the Apex Court itself. On the face of it, the orders are stigmatic as the principles of natural justice have been violated. By virtue of the termination letter, the appellant-writ petitioner's right as such to seek employment elsewhere has been jeopardized in as much as on the basis of the said termination letter he cannot show his work experience to any prospective employer. Even though it was a contractual employment, it was open to the respondents to hold an enquiry and then come to the said finding. Having not done so and chosen to blackball the appellant-writ petitioner for all times to come, we are of the considered opinion that compensation would necessarily have to be awarded. The amount as such



ordered by the Coordinate Bench on an earlier occasion of Rs. 5 lacs in our considered opinion would be an adequate compensation keeping in view the services rendered by the appellant-writ petitioner from December, 2017 to 25.01.2021 since the amount of remuneration has been enhanced from Rs. 16,000/- to Rs. 35,400/-.

12. Resultantly, the present appeal is allowed.
13. The respondents are directed to pay the said amount of Rs. 5 lacs within a period of two months from the receipt of the certified copy. The order dated 12.08.2021 is quashed. A simplicitor letter dispensing with the services as such regarding his contract be issued to the appellant-writ petitioner so that he is free to take employment elsewhere on the strength of his experience.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

20.05.2024
Amodh Sharma

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