

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2024:PHHC:047233-DB

(103)

LPA-1109-2022
Decided on : 08.04.2024

Cambridge International School, Phagwara

.....Appellant(s)

Versus

Punjab Education Tribunal and and others

.....Respondent(s)

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

Present:- Mr. Pranav Handa, Advocate for the appellant.

G.S. Sandhawalia, Acting Chief Justice (Oral)

Counsel for the appellant has placed on record photocopy of the receipt dated 05.04.2024 regarding depositing of costs of Rs.5,000/-, as directed vide order dated 13.02.2024. Resultantly, we proceed to deal with the issue on merits in the present letters patent appeal, which is time barred by 135 days in filing the same.

2. The present letters patent appeal is directed against interim order dated 19.05.2022 passed by the learned Single Judge in **CWP-8620-2021** filed by the appellant school. Vide the said order, the learned Single Judge had issued notice to respondent No.3, who had been appointed on the post of

Registrar with the appellant school, only qua backwages to the extent of 50% which had been granted by the Educational Tribunal, Punjab, vide order dated 21.10.2019 (Annexure P-1), which was subject matter of challenge in the writ petition.

3. Counsel for the appellant has, thus, argued that the findings regarding the termination as such have been upheld by the learned Single in the interim order and, therefore, there is need to file the present appeal. It is submitted that while issuing notice gamut of whole issue should have been kept open, rather than dismissing the writ petition qua the issue of reinstatement.

4. The learned Single Judge while issuing notice in the writ petition on the limited point came to the conclusion that the employee had been working in CT World School, Jalandhar and the allegations were that she had sold suits from the school. Keeping in view the fact that no show cause notice had been issued, the finding recorded by the Tribunal was upheld that services could not be dispensed without issuing any show cause notice.

5. We have perused the order of the Tribunal also. Respondent No.3 had been appointed initially vide letter dated 08.12.2010 (Annexure P-3). There was a clause regarding probation, which was of one year, subject to extension at the sole discretion of the school management and on completion of one year unless confirmed in writing, the same was deemed to be extended further. Whereas Clause 4 provided the termination of employment, which would give the right to the parties to give one month notice during probation and after confirmation three months notice. Apparently, from the termination

order dated 05.06.2017 (Annexure P-8), in lieu of notice period three months salary was given, in view of Para 4.1 of the appointment letter as referred to above. The termination order reads as under:-

“This is to inform you that overall performance has not been found satisfactory therefore your service are no more required and the same stands terminated with immediate effect from 5th June 2017. You will be paid 3 months salary in lieu of notice period under the rules mentioned in Para 4.1 in your appointment letter.

6. Thus, the appellant school accepted the fact that respondent No.3 was a confirmed employee and, therefore, itself had paid three months salary in lieu of the notice period. Nothing could be brought to our notice that on account any mis-conduct as such notice was issued to the employee that she had mis-conducted herself in any manner. Resultantly dispensing of her services by the above said letter is more on the ground that she was on probation and her overall performance has not been found satisfactory having served for a period of over six years. The Tribunal had, thus, rightly come to the conclusion that being a regular employee her services could not be dispensed with, in the manner the same had been done. In such circumstances, the learned Single Judge had only issued notice qua payment of backwages, as a plea had been taken that the employee has gained employment in the CT World School, Jalandhar, after the termination, which fact had been concealed while preferring the appeal before the Tribunal and while mentioning that same information had been supplied by the said school.

7. Resultantly, keeping in view the terms of the employment and the fact that the appellant-school itself was aware that she was a regular employee,

we do not find any ground to entertain the present letters patent appeal. However, it is made clear that we have not observed anything on the issue regarding the payment of backwages, which is subject matter of consideration before the learned Single Judge.

8. Dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

08.04.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No