

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

225

CWP-31143-2019 (O&M)
Decided on :23.04.2024

KISHAN LAL

.PETITIONER

Versus

STATE OF HARYANA AND OTHERS . . . RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Shubhkarman Singh Gill, Advocate for
Mr. Kshitij Sharma, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the order dated 02.08.2019 (Anneuxre P-9) by which, the services of the petitioner have been dispensed with by passing an order simplicitor.

2. Learned counsel for the petitioner submits that before passing the impugned order dated 02.08.2019 (Annexure P-9), in case there was any miss in discharge of the service or misconduct on part of the petitioner, the respondents were required to hold an enquiry to prove the said allegations alleged against him hence, the impugned order which has been passed by the authority concerned without holding any enquiry is liable to be set-aside.

3. Learned counsel for the respondents on the other hand submits that the petitioner was appointed as multi purpose worker on contractual basis dated 04.03.2010 and copy of appointment letter is appended as Annexure P-1. Learned counsel for the respondents further submits that as per Clause 7 of the appointment letter dated 04.03.2010 (Annexure P-1), in

case, the work and conduct of the petitioner is not satisfactory or he is found guilty in any coordination or any misconduct is committed by him the service of the petitioner can be terminated without giving him any prior notice.

4. Learned counsel for the respondents further submits that as petitioner was working on part time basis on the said post he did not have any right to hold the post so as to claim the privileges of Article 311 of the Constitution of India.

5. Learned counsel for the respondents further submits that even otherwise the question of law as raised in the present petition that whether the services of an employee can be dispensed with as per the terms and conditions of the appointment order has been settled by the Co-ordinate Bench of this Court by passing judgment in **CWP-3266-2017 titled as Madhvi Lochab v. State of Haryana and others' decided on 03.02.2022,** which judgment has already been upheld in **LPA No. 1011-2022, titled as Madhvi Lochab v. State of Haryana and others, decided on 05.03.2024.**

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

7. It may be noticed that once the petitioner has been appointed as multi purpose worker on temporary basis, he does not have any right to hold the said post. The privileges given under Article 311 of the Constitution of India are only for the regular employees. As per the settled principle of law in **Madhvi Lochab' s case (Supra),** the action can be taken by an employer keeping in view the terms and conditions of the appointment letter and it is a conceded position that the services of the petitioner can be dispensed with keeping in view the condition No. 7 of his appointment letter dated 04.03.2010 (Annexure P-1). That being so, the petitioner cannot be allowed

to argue that there should be an enquiry to prove the misconduct before dispensing the services of the petitioner.

8. Even otherwise also, the same question of law whether the enquiry is must for dispensing of the services of the temporary employee or the same can be dispensed with as per the terms and conditions of the appointment order has been settled by the Co-ordinate Bench of this Court in *Madhvi Lochab's case (Supra)* which judgment has already been upheld in *LPA No. 1011-2022, titled as Madhvi Lochab v. State of Haryana and others, decided on 05.03.2024.*

9. Learned counsel for the petitioner has not been able to rebut the said contention, hence, keeping in view the facts and circumstances of the present case recorded herein above question of law is covered against the petitioner, hence, no ground is made out for interference in the present petition and the same stands **dismissed**.

10. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

23.04.2024

Riya

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No