



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-33561-2024

Date of Decision: 12.12.2024

G. D. GOENKA GROUP OF INSTITUTIONS AND OTHERS**...Petitioner(s)****Versus****GEETA AND OTHERS****...Respondent(s)****CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present:- Mr. Alok Mittal, Advocate and
Mr. Shubham Thakur, Advocate for the petitioners.

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the judgment dated 22.08.2024, Annexure P-8, passed by the Educational Tribunal, Rohtak, whereby after setting aside the termination of first respondent it has been directed to reinstate her with continuity in service alongwith all consequential benefits.

2. Learned counsel for the petitioners contended that the first respondent was initially appointed as teacher in the School run by the petitioner Society for one year in April, 2018. A fresh appointment letter was issued to her with effect from 01.04.2020, Annexure P-1, with the conditions that she would be on probation for one year, and in case her conduct during the period was not satisfactory her services were liable to be terminated without notice. Confirmation of service would be done by the Management after successful completion of probation period and review of performance. In terms therewith, her services were terminated during probation vide letter dated 11.09.2020. Since the termination was as per terms and conditions of appointment, it could not have been interfered with by the Tribunal. Secondly,



learned counsel contended that the first respondent did not deny the allegations levelled in the letter of termination, therefore there was no occasion for the Tribunal to set it aside. Thirdly, it has been contended that reinstatement in service could not have been granted because the first respondent did not plead anywhere in the appeal that she had not been gainfully employed after the termination.

3. Heard.

4. A perusal of the letter of termination, dated 11.09.2024, makes it apparent that the same has been issued due to insubordination, unprofessionalism, anti-organisational activities, indulging in coaching/tutoring of students for commercial benefits, etc., by the first respondent. The letter reads as under:

We are sorry to inform you that your services as a mother teacher in the Junior Wing of GD Goenka International School are being terminated with immediate effect because of the following reasons:

1. Severe insubordination
2. Procrastination.
3. Unprofessional and unethical work culture
4. Reluctance to learn from past mistakes
5. Involving in anti-organisational activities
6. Indulging in coaching/tutoring of students for commercial benefits without seeking prior approval from the school.

You had been previously warned verbally of the consequences of such activities and advised to give a very good account of yourself in days to come. However, unfortunately we found that there is absolutely no improvement in your behaviour. Hence, your services are no longer required in our esteemed organisation. 11 September 2020 will be considered as your last working day in the school.



4.1. It is a settled proposition of law that in case an employee who is on probation, is to be terminated from service on account of misconduct or other allegations imputing any stigma on his/her work, conduct or character etc., an enquiry is required to be held in the matter in accordance with the Principles of Natural Justice. And only after the charges having been established, termination order could be passed. In this case, despite the termination order being stigmatic on the face of it, wherein serious allegations of unprofessionalism and unethical conduct have been made the basis to pass the order against the first respondent, no enquiry has been held into the allegations, nor have the same been otherwise established in any manner prior thereto. It is not the petitioners' case that the first respondent was ever asked to respond to the allegations, or any enquiry of any kind was conducted against her in that regard. This renders the order of termination illegal being violative of the fundamental Principles of Natural Justice, and a result of sheer highhandedness on the petitioners' part.

5. So far as the second contention of the learned counsel regarding failure of the first respondent to deny the allegations is concerned, a perusal of the appeal filed before the Tribunal, Annexure P-4, itself shows that not only the allegations have been denied but it has also been alleged that the termination is against the law and service Rules, as also the Principles of Natural Justice and accordingly liable to be set aside. Resultantly, there is no substance in the argument that the allegations have not been denied by the first respondent. Besides, if the plea of violation of the Principles of Natural Justice has been taken by the first respondent in the appeal, that in itself is sufficient for the Tribunal to examine the validity of termination order.



6. The third contention of the learned counsel made on the strength of judgment in *Rajasthan State Road Transport Corporation, Jaipur v. Shri Phool Chand(Dead) through LRs*, (2018) 18 SCC 299, that the reinstatement could not have been granted to the first respondent in the absence of any statement by her of not being gainfully employed anywhere, is misplaced, since the principles of law laid down therein are with respect to termination and reinstatement of workman under the Industrial Disputes Act, 1947. The same will not have any application to the instant case. The first respondent was not a workman, nor was her service regulated under the 1947 Act. Besides, as apparent from the written statement, dated 28.10.2021, Annexure P-7, it had not been the petitioners' case before the Tribunal that the first respondent was gainfully employed and therefore could not claim back wages, or that she was not entitled to reinstatement. There was, therefore, no requirement for her to state the fact regarding not being gainfully employed, nor can the reinstatement be termed illegal on that account.

7. No other argument has been raised by the learned counsel.

8. Further, the petitioner Society has been granted liberty by the Tribunal to proceed against the first respondent in accordance with the law by enquiring into the allegations, after affording her opportunity to prove the charges levelled against her.

9. In view thereof, there is no ground to entertain the petition and it stands dismissed in *limine*.

(TRIBHUVAN DAHIYA)
JUDGE

12.12.2024
Ad

Whether speaking/reasoned Yes/No

Whether reportable Yes/No