

2025:PHHC:039307



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

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CWP-9997-2020

Date of Decision: 20.03.2025

ROBIT

... Petitioner

VERSUS

UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Vipul Sachdeva, Advocate
for the petitioner.

Ms. Anita Balyan, Senior Panel Counsel
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for directing the respondents to re-instate the petitioner in service as a regular employee with all service benefits.

Learned counsel for the petitioner contends that the petitioner was appointed as a Clerk on *ad hoc* basis by the office of respondent No.2- Headquarters, Western Command on 21.04.1997. He claims that the petitioner was performing his duties to the complete satisfaction of the department. On 26.08.2008, his services were converted from '*ad hoc*' to 'contractual' and initially a temporary service contract was signed between the petitioner and the respondents, which was thereafter renewed regularly. The employment

was thus extended w.e.f. 26.08.2008 onwards and lastly the contract was extended for one year from 24.08.2017 to 23.07.2018. However, notwithstanding the said contract, the petitioner was put under duress by the official of the respondent-Department and he was pressurized that unless he submitted a relieving letter with the Department, he would not get his salary and that he would also be forcibly removed from the job. Under said duress, the petitioner signed the relieving letter on 19.10.2017. He contends that notwithstanding the submission of the relieving letter by the petitioner, the respondents did not release his salary, whereupon a letter dated 10.11.2017 was submitted by the petitioner to respondent No.2, pointing out that he was orally directed by the office of respondent No.2 to sign the relieving letter on account of “unwillingness to serve” and he further conveyed that he seeks cancellation of the relieving letter since his salary had not been paid. He further submits that since a formal acceptance of the relieving letter had not been conveyed to the petitioner, hence, he had every right to withdraw the same. Counsel for the petitioner has further argued that the grounds taken by the respondents in their written statement about the petitioner having been apprehended on 26.04.2017 are false as the petitioner was not in the office and was on leave on the said date. It is thus contended that all the said circumstances clearly establish that there was malafide misuse of power by the respondents in illegally relieving the petitioner.

Counsel for the respondents on the other hand contends that the instant petition was filed in the year 2020 i.e. after more than three years of the relieving of the petitioner. She further contends that even though it is not disputed that the petitioner was initially employed on *ad hoc* basis as Clerk

w.e.f. 21.04.1997 by the Headquarter and he was made contractual employee w.e.f. 26.08.2008. However, he was engaged by the legal cell and was not appointed as a temporary or regular employee by the department and was paid salary out of non-government fund and his duties were purely contractual in nature. She admits that even though the contract was renewed w.e.f. 24.08.2017 to 23.07.2018, however, the conduct, behaviour and discipline of the petitioner started deteriorating, affecting the general functioning of the Legal Cell. The petitioner failed to perform his basic duties and was frequently absenting himself without prior permission of the Competent Authority. He was counselled on various occasions but to no avail. It was also detected that the petitioner committed a major cyber security violation and a pen drive was also found to have been used on his official computer, qua which communication was sent vide letters dated 18.08.2016; 20.08.2016; 06.03.2017 and a warning letter was also issued to him on 15.11.2017 for a major cyber security violation. The conduct of the petitioner was in clear violation of ACSP-2017. She submits that soon after the discovery of the pen drive, the petitioner left the office after forwarding a letter dated 19.10.2017 conveying his unwillingness to work and he also informed his colleagues that he found a new job and thereafter he did not report on duty.

Learned counsel for the petitioner refers to the replication and submits in rebuttal that there is an inherent discrepancy in the submissions advanced by the counsel for the respondents inasmuch as notwithstanding the letters relied upon by the respondents about the petitioner being irregular pertaining to the period between August 2016 till March 2017, the respondents nonetheless had extended the contract of the petitioner on 24.08.2017. Hence,

it cannot be held that the petitioner's conduct was not upto the mark. He further submits that the respondents have stated that the pen drive was allegedly found to have been used on the office computer being supervised by the petitioner on 26.04.2017 whereas the warning letter was given on 15.11.2017 which is much after the petitioner is stated to have extended his unwillingness to work on 19.10.2017 and he is alleged also to be not reporting to work since then. He further submits that if the case of the respondents is accepted that the petitioner had expressed his unwillingness to work on 19.10.2017, there was no occasion for the respondents to issue a warning letter to the petitioner on 15.11.2017. Further, there is no reference to any alleged action taken by the respondents, even though it is stated that the pen drive was found to have been used on the office computer of the petitioner on 26.04.2017. The communication referred to by the respondents in their written statement is prior to the alleged violation while the renewal of contract is later. He contends that it would be highly unbecoming for the respondents to have not initiated any action against the petitioner in case the circumstances would have been in the manner so alleged.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

Prima facie, I find that the arguments advanced by the counsel for the petitioner carry some weight. A perusal of the reply shows that the respondents have alleged that there were complaints against the work and conduct of the petitioner, for which he had been counselled vide letters dated 18.08.2016, 20.08.2016 and 06.03.2017. The said letters have also been

perused. However, notwithstanding the aforesaid communications, it remains undisputed that the respondents renewed the contract of the petitioner on 24.08.2017 for a period of one year i.e. till 23.07.2018. Much emphasis has although been laid on the allegations of alleged cyber security violation, which is stated to have taken place on 26.04.2017, however, the renewal of the contract took place four months after the alleged cyber security violation. So much so, the respondents have even though referred to certain correspondences that had taken place on 18.08.2016, 20.08.2016 and 06.03.2017 about the petitioner purportedly not complying with the terms of the contract, however, not a single communication has been generated by the respondents despite the allegation of alleged cyber security violation. The renewal of the agreement on 24.08.2017, which is nearly four months after the detection of the alleged cyber security violation, itself raises a strong suspicion about the claim of the respondents. Further, the respondents have emphasized that the petitioner submitted a relieving letter on 19.10.2017 and he was not reporting for work thereafter, however, he was issued a warning letter on 15.11.2017 for the alleged major cyber security violation, which timelines do not inspire any confidence.

I *prima facie* am of the view that the aforesaid version is an afterthought and has been created by the respondents to defeat the right of the petitioner. Undeniably, the petitioner had himself submitted a letter on 10.11.2017 to the respondents alleging that he had been made to submit an unwillingness to serve on the directions of the official of the respondents and that despite expiry of more than 22 days, his salary had not been paid and thus he sought withdrawal of his unwillingness. The communication dated

15.11.2017 i.e. the warning letter issued by the respondents to the petitioner, is later in time even to the subsequent letter dated 10.11.2017 addressed by the petitioner, hence, it is *prima facie* an afterthought. The totality of the facts and circumstances does not add up. In case the contention of the petitioner is accepted, there would be no reason for the respondents to issue a letter on 15.11.2017 with respect to an event that took place on 26.04.2017. There is also no averment or allegation that the petitioner was not reporting for work from 26.04.2017 to 19.10.2017. Besides, the nature of alleged major cyber security violation has also not been brought forth and no reasons have been assigned as to why no action had been taken against the petitioner for such an alleged major cyber security violation till 15.11.2017. Apparently, much has been concealed by the respondents and they have not approached this Court with clean hands rendering their action suspect. However, at the same time, this Court feels that it may not be in the best interest of the petitioner at this juncture to be re-inducted on the contractual appointment, after a lapse of more than eight years since the relationship of employer and employee was purportedly discontinued. The balance of justice and equity is, hence, being sought to be restored by directing the respondents to pay a lump sum compensation to the petitioner to the tune of Rs.5,00,000/-, within a period of two months of the receipt of certified copy of this order.

Liberty is granted to the respondents that the amount of aforesaid compensation as awarded by this Court can be recovered as per law and after fixing liability of the person who filed apparently misleading and brazenly incorrect replies and affidavits before this Court to prejudice and misguide this

Court by giving a wrong narration of the sequence of events and the manner in which they had taken place.

Petition stands disposed of in above terms.

(VINOD S. BHARDWAJ)
JUDGE

20.03.2025.

Rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No