



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211-1

CWP-11849-2018(O&M)
Date of decision: 21.05.2025

Dharampal

...Petitioner

VERSUS

State of Haryana and others

...Respondents

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

Present :- Ms. Jai Shree Kaushik, Advocate for the petitioner(s).

Mr. Rahul Dev, Addl. AG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order bearing memo No.4028 dated 27.02.2018 whereby the service of the petitioner has been terminated without following the due procedure.

2. The order of termination, which is under challenge in the present writ petition, reads thus:-

“Sub: To give false evidence in case bearing No. 71/2016 title as Dharampal S/o Sh. Nanku Ram, r/o Ramgarh Road Colony.

Ref: Regarding the letter no. 3715 dt. 05.02.2018.

It has come to the notice of the depty. that in above case, you have gave the evidence on 03.08.2016 before labour court Ambala, by way of Affidavit, that you have worked in the



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Saraswati Range continuously from 15.12.2007 to 06.05.2015, and my services were terminated on 06.05.2015, and I am entitle to retain in service along with my all service benefits.

It has also come in Notice, that under Manage Scheme you Job Card No. in H.R. -03-091-052-001/28 and you have worked under this scheme from 08.11.2010 to 01.12.2010 on different occasion under the Different Deptt.

From the above facts it is clear, that you have deposed false through affidavit on 03.08.2016, that you have worked from 15.02.2007 to 06.05.2015 in Saraswati range continuously and you service have been terminated on 06.05.2015 and in this way you are entitle to retain in service with continuity of service and full back wages.

From the above stated facts you are hereby served with show cause notice, that why not your services be terminated on the ground that you have deposed falsely, and necessary ne action be taken against you, in the ground for deposing falsely by way of affidavit. If you reply was not received with in fifteen days in the office, it would be presumed, that you did not want to say anything in your defence and admitting your guilt, in view of the same you would be removed from services and necessary action be taken against you as per law.

That you reply dt. 19.02.2018 has been received in this



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office vide memo no. 3530 dt. 20.02.2018 and your same has been perused and it is found that you have worked under Manrega Scheme for 7 days in Nov 2010 and for 5 days in December 2010 and in your defence you have not produced nothing, and you have been registered under Manrega Scheme vide job card no. HR-03-091-052-001/28 dt. 20.10.2010 and it has been stated by you that you have never worked under Manrega is totally wrong. That the reply as given by you the Department is not satisfied with the same. Hence, you are hereby terminated with immediate effect and the amount of back wages which is to be paid to you, and the financial loss which was caused due to this act has to be bear by you.

Despite that necessary action is also separately initiating against you on the false evidence deposed by you through affidavit.”

3. Learned counsel appearing on behalf of the petitioner has strenuously urged that the order of termination of the petitioner's services has been passed under the guise of an alleged false deposition given by him in Reference No. R/71/2016 before the Labour Court. It is her contention that the Labour Court, while adjudicating the reference, had categorically recorded a finding that the management had failed to discharge the burden of proof incumbent upon it to establish that the petitioner was not in their employment during the relevant period after the petitioner had discharged



his primary onus. To the contrary, the Labour Court recorded the findings against the respondent-Department and answered the reference in favour of the petitioner and directed his reinstatement with continuity of service, albeit restricting the back wages to 50%.

4. Subsequently, in the challenge to the award by the management, the High Court, while exercising its supervisory jurisdiction, partially modified the award only to the extent of reducing the back wages to 30%, but notably, upheld the direction of reinstatement with continuity of service. Learned counsel further submits that the impugned order of termination has been passed by the employer with the sole intent of circumventing and nullifying the effect of the said award, which had attained finality, to the extent of reinstatement and continuity. Such an action, it is argued, amounts to a colourable exercise of power and constitutes an abuse of process of law and maliciously calculated to subvert the adjudicatory outcome in favour of the petitioner.

5. Learned State counsel, while not disputing the existence or outcome of Reference No. 71/2016 instituted by the petitioner challenging his termination-wherein the Labour Court had allowed the reference and directed reinstatement along with continuity of service-nonetheless seeks to justify the impugned order of termination. He reiterates the averments contained in the impugned order and contends that the petitioner had made a false and misleading deposition during the course of proceedings before the Labour Court. It is, therefore, argued that the subsequent order of



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termination was necessitated and warranted in light of such mis-conduct of the petitioner, hence, the same has been passed in accordance with law.

6. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition with their able assistance.

7. I am of the considered view that the stand adopted by the respondent-State is unsustainable and merits rejection. The entire foundation of the impugned action rests upon an alleged false deposition made by the petitioner while deposing as a witness before the Labour Court in Reference No. R/71/2016. Undisputedly, the respondents were afforded full opportunity to confront the petitioner's testimony and to lead cogent evidence to rebut the same during the adjudication of the said reference. Having failed to discharge the burden cast upon them and having further failed to secure any relief in the writ proceedings assailing the award-save for a minor modification regarding back wages-the respondents now seek to circumvent the adjudicated outcome by initiating disciplinary proceedings premised on the same facts already examined and ruled upon by a competent forum against the respondents.

8. Such an action is manifestly a colourable exercise of power and constitutes an attempt to overreach the judicial process. The award of the Labour Court, having attained finality, binds the parties and cannot be rendered illusory by resorting to collateral administrative action that defeats the substance of the adjudicated rights. The impugned termination order,



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being a device to nullify the effect of the award, cannot be sustained in law.

9. The instant writ petition thus deserves to be allowed. The impugned order bearing memo No.4028 dated 27.02.2018 is set aside. For this illegal and undeserving act of adventurism, the respondents are burdened also with a cost of Rs.25000/- to be paid to the petitioner.

10. Let the needful be done within a period of 02 months of receipt of a certified copy of this order.

11. Liberty is however granted to the respondents to effect recovery of cost from the erring official.

12. All pending civil misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

21.05.2025*Mangal Singh*

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