
(2007) 08 P&H CK 0157
In the Punjab And Haryana At Chandigarh

Ajmer Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 29-08-2007

Acts Referred:

Constitution of India, 1950 — Article 12, 226

Citation : (2007) 4 PLR 763

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Permod Kohli, J.—The petitioner who has possessed M.A., M.Phil qualification came to be engaged as a part time lecturer in Sanskrit on temporary basis and consolidated salary of Rs. 2,000/- per month vide order dated 21.8.1995 by the President of the society-respondent No. 4. The appointment of the petitioner continued upto 28.2.1996 as per condition No. 1 of the appointment order. The order further stipulates that the services of the petitioner can be terminated at any time without assigning any reason. Pursuant to aforesaid appointment order, the petitioner joined the service. Thereafter, the petitioner's appointment was approved as part time lecturer w.e.f. 22.8.1995 to 25.2.1996 by the Kurukshetra University Kurukshetra vide order dated 30th November, 1995. It is alleged that the petitioner's appointment was extended from time to time. One such extension was from 12.8.2000 to 28.2.2001. His services were terminated by respondent No. 5 vide order dated 27.2.2001 (Annexure P-5). It is also alleged that consequence upon his termination, respondent No. 6 was engaged in his place. The petitioner filed the present petition challenging his termination vide Annexure P-5 and also seeks a further direction for his reinstatement in service and grant of arrears of pay and other allowances with interest at the rate of 12 percent per annum. Short question that needs to be considered is whether the petitioner has any right to continue in service pursuant to his appointment and whether the writ petition under Article 226 of the Constitution of India is maintainable against respondent No. 5 which is admittedly, a private registered

society. Reply has been filed only by the State Government raising preliminary objections regarding the maintainability of the writ petition against the society. It is settled law. that the society is not a State, its instrumentality or authority within the meaning of Article 12 of the Constitution of India unless it qualifies the test as laid down in case of Pardeep Kumar Biswas v. India Institute of Chemical Biology 2002 (2) S.C.T. 1067 (S.C.) .

2. In view of the condition No. 3 of the appointment letter, petitioner's service can be terminated at any time without assigning any reason. The State Government has specifically stated that it has no concern with the society which is running the college. It has also been stated that post against which the petitioner was engaged, is not a sanctioned post.

3. Learned Counsel appearing for the State further submits that the State has no administrative and financial control as far as the society is concerned. Respondent No. 5 society thus is not a State within the meaning of Article 12 of the Constitution of India and thus is not amenable to writ jurisdiction under Article 226 of the Constitution of India. Apart from above, the engagement of the petitioner was purely temporary in nature on consolidated wages. No right vests with the petitioner for regularization. Even if the termination of the petitioner is held to be bad in law, his remedy is not to seek enforcement of the contract as such a contract is a contract of personal service and is not specifically enforceable even under Specific Relief Act. The impugned order itself says that the petitioner was working on temporary basis and his services are not required.

4. Under these circumstances, I find no merit in this petition which is accordingly, dismissed.