
(2021) 04 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 33915 Of 2019 (O&M)

Karam Singh

APPELLANT

Vs

Managing Director, National Health Mission And Others

RESPONDENT

Date of Decision : 06-04-2021

Acts Referred:

Citation : (2021) 04 P&H CK 0049

Hon'ble Judges : Sudhir Mittal, J

Bench : Single Bench

Advocate : Madan Pal, Sanjay Mittal

Final Decision : Allowed

Judgement

Sudhir Mittal, J

The petitioner was appointed on contract basis as Senior Tuberculosis Laboratory Supervisor on 03.09.2005. The contract was for a period of one year. The same was extended every year and the last extension was vide communication dated 31.05.2019 whereby the contract was extended upto 31.03.2020. In the same year, an FIR No.682 dated 23.06.2019 copy annexed as Annexure P-15 was registered at the instance of one Pritam Kaur who had purchased a 05 marla property from the petitioner. The allegation in the FIR was that in the agreement to sell, the area of the property was mentioned as 200 Sq. Yds. whereas the property actually measured 150 Sq. Yds. Consequently, the petitioner was arrested on 10.08.2019 and was bailed out on 16.08.2019. He re-joined duty on 17.08.2019. Thereafter, show cause notice dated 26.09.2019 was issued to him asking him as to why he remained willfully absent. The petitioner submitted a reply saying that he was not willfully absent and that he had been arrested by the police by virtue of FIR dated 23.06.2019 which was in fact an abuse of the process of the criminal law as the agreement to sell mentioned the area as 05 marlas and by a clerical error 200 Sq. Yds. was mentioned instead of 150 Sq. Yds. The reply did not find favour with the authorities and thus, vide order dated

25.10.2019 (Annexure P-22) the contract of the petitioner was terminated on account of being willfully absent for more than 07 days and on account of a criminal case having been registered against him.

Learned counsel for the petitioner submits that a perusal of the order of termination dated 25.10.2019 makes it clear that termination was on account of alleged misconduct and thus, a regular inquiry should have been conducted before terminating his services. That apart, neither of the grounds mentioned in the impugned order are made out as the absence was not willful. It was also not for a period exceeding 07 days. The FIR is patently mischievous as the agreement to sell clearly mentions that the area of the property was 05 marlas which works out to 150 Sq. Yds. Thus, termination of the contract was illegal.

Written statement has been filed on behalf of the respondents in which the fact of petitioner submitting his joining report on 17.08.2019 has been admitted.

Learned State counsel submits that being a contractual employee, the services of the petitioner could have been terminated at any time without conducting any inquiry.

Undoubtedly, the petitioner is a contractual employee and in terms of the contract, his services could have been terminated without conducting any inquiry. However, the termination was on account of misconduct as is evident from the order dated 25.10.2019 (Annexure P-22) and in a Division Bench judgment of this Court in Union Territory of Chandigarh and others vs. Central Administrative Tribunal, Chandigarh Bench and others 2011 (1) SCT 777, it has been held that where the question is of misconduct, regular inquiry has to be conducted even if the employee is a contractual employee. No judgment to the contrary has been cited and thus, the impugned order is liable to be set aside on this short ground alone.

In the written statement, it has been admitted that the petitioner rejoined duty on 17.08.2019 and factually also the period of absence was not in excess of 07 days. Reliance upon Clause 7 of the letter of contract in the impugned order is also erroneous as the said clause stipulates that the candidate must join by the appointed date. Registration of the FIR is patently mischievous as (i) it has been registered after 08 years of transfer of possession and (ii) the agreement to sell dated 28.06.2011 records that the property sold measured 05 marlas which works out to 150 Sq. Yds. Thus, it cannot be said that the petitioner has committed any crime leave alone a crime against society.

For the aforementioned reasons, the writ petition deserves to be allowed and impugned order dated 25.10.2019 (Annexur P-22) is quashed. The petitioner shall be entitled for wages for the period from 25.10.2019 till 31.03.2020. If the respondents desire that his contract be renewed, they are at liberty to do so.