
(2014) 04 P&H CK 0065

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1836 of 2011 (O&M)

Manpreet Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 03-04-2014

Acts Referred:

Citation : (2014) 175 PLR 483

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Kapil Kakkar, Advocate for the Appellant; Pankaj Mulwani, Deputy Advocate General and N.P.S. Mann, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Rajesh Bindal, J.—The petitioner, who is working as ETT teacher in Government Elementary School, Uppal, Block Ludhiana-2, Ludhiana, has filed the present petition impugning the order dated 1.12.2010 (Annexure P-3), whereby the petitioner was posted at Government Primary School, Raipur Bet and further the order dated 14.1.2011 (Annexure P-6), vide which the petitioner was placed under suspension. Learned counsel for the petitioner submitted that the petitioner was appointed as ETT teacher in the Department of Rural Development and Panchayats on 26.6.2006. She is governed by Punjab Panchayat Raj Primary Teachers Service Rules, 2006 (for short, "the 2006 Rules"). Vide communication dated 1.12.2010, Director, Rural Development and Panchayat, posted the petitioner at Government Primary School, Raipur Bet, District Ludhiana. As the petitioner had been given complete charge of the school and could not leave the same, she represented to the Director not to post her at Raipur Bet. The same was followed by another representation. However, the petitioner received an order dated 14.1.2011 on 20.1.2011 placing her under suspension on account of noncompliance of the order of her posting.

2. Learned counsel, while referring to Rule 11 of the 2006 Rules, submitted that no transfer could be made except on promotion against the vacancy within

district or in case of marriage and within the block in case sanctioned strength of teachers in a school is revised as per norms of the Government. In the present case, none of these conditions existed. He further submitted that in terms of Rule 16 of the 2006 Rules, as far as matters pertaining to discipline, punishment and appeal is concerned, the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short, "the 1970 Rules") are applicable. In terms thereof, the petitioner could be suspended only in contemplation of an enquiry but in the present case, no such fact has been mentioned in the order of suspension. Even otherwise, the petitioner merely being a teacher and the allegation merely being that she did not join at her new place of posting, though she could not have been posted there in terms of the 2006 Rules, there was no chance of petitioner's tampering with any evidence.

3. On the other hand, learned counsel for the respondents submitted that the petitioner was not transferred to other school, rather, she was merely posted for a short duration. After the grant of interim stay by this court, the petitioner is continuing in the same school. It was further submitted that though it has not been mentioned in the order that enquiry is contemplated against the petitioner, however, the fact remains that the process was to be initiated after the petitioner had been suspended, but on account of interim stay granted by this court of the operation of suspension order, no further action was taken in the matter.

4. Heard learned counsel for the parties and perused the paper book.

5. As far as the order of posting of the petitioner is concerned, in my opinion, considering the fact that the petitioner is continuing at her original place of posting for the last more than three years, in terms of the order passed by this court, and the stand of the respondents was that it was merely an arrangement for a short duration that the petitioner was posted there, the prayer made at this stage has been rendered infructuous. However, the respondents shall be at liberty to post the petitioner at any place in terms of the Rules applicable.

6. As far as the order of suspension is concerned, it is not in dispute that in terms of the 1970 Rules, suspension can be in contemplation of an enquiry. Till date, no enquiry has been initiated against the petitioner. The defence is that as the order of suspension was stayed, no further action was taken. However, considering the fact that charge against the petitioner is that she did not join at the place of posting in terms of the order passed by the Director, Rural Development and Panchayat, in my opinion, it would not be in the interest of justice to place the petitioner under suspension at this stage after more than three years. The petitioner is otherwise merely working as a teacher. In view of the above, the order of suspension (Annexure P-6) is quashed. However, the same will not debar the authorities from taking action against the petitioner for alleged non-compliance of the order passed by the Director, Rural Development and Panchayat.

The writ petition stands disposed of.