

(2013) 08 P&H CK 0486
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 16517 of 2013

Sohan Lal

APPELLANT

Vs

Punjab and Haryana High Court and Another

RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0486

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : Ravinder Malik Ravi, for the Appellant;

Final Decision : Dismissed

Judgement

Tejinder Singh Dhindsa, J.—Vide order dated 04.08.2010 passed by the District & Sessions Judge, Ambala (Annexure P-5), the petitioner was offered appointment to the post of Sweeper. In terms of such appointment letter, the petitioner was to be on probation for a period of two years, which could be extended by one year without assigning any reason. Still further, express condition contained in the appointment letter was to the effect that if his work and conduct is not found satisfactory, then his services would be liable to be terminated at any time during the probation period. The services of the petitioner were dispensed with during the probation period in terms of order dated 10.05.2011 at Annexure P-6. The petitioner filed a service appeal, which was considered by this Court on the administrative side and even such service appeal has been dismissed vide order dated 19.09.2012 (Annexure P-9).

2. The present writ petition has been filed impugning the order dated 10.05.2011 (Annexure P-6) as also the order dated 19.09.2012 (Annexure P-9) dismissing his service appeal.

3. Counsel for the petitioner would vehemently argue that the impugned order dated 10.05.2011 (annexure P-6) does not spell out any reasons and does not disclose the basis upon which the decision has been taken to dispense with the

services of the petitioner. In support of such contention, learned counsel for the petitioner would place reliance upon a judgment of the Hon''ble Supreme Court in Krishnadevaraya Education Trust and Another Vs. L.A. Balakrishna, . That apart, counsel would also refer to yet another judgment of the Hon''ble Supreme Court in The The Management of the Express Newspapers (Private) Ltd. Madurai Vs. The Presiding Officer, Labour Court, Madurai and Another, to contend that even during the period of probation, it was open for the respondent-authorities to dispense with the services only if a ground of misconduct was made out against the petitioner or for any other sufficient reason.

4. Counsel for the petitioner has been heard at length.

5. The objective of placing an employee under probation at the time of his initial appointment and engagement in service is very clear. Such objective is to enable the employer to adjudge the work and conduct of the employee during the probation period and thereafter, to take a decision as regards retention of such employee in service and for confirmation. It is no longer *res integra* that even if an order of termination refers to unsatisfactory service of the person concerned, the same cannot be said to be stigmatic. In this regard, a reference may be made to the decision of the Hon''ble Supreme Court in *Abhujit Gupta Vs. S.N.B. National center, Basic Sciences and Others*, Still further, the Hon''ble Supreme Court in the case of *Pavanendra Narayan Verma Vs. Sanjay Gandhi P.G.I. of Medical Sciences and anr*, had examined the issue as to whether an order of termination of the service of a probationer would be an order *simpliciter* or a stigmatic termination. After having considered a number of earlier decisions passed by the Court, it had been held that judicially evolved test to determine whether in substance an order of termination is punitive is to see whether prior to the termination there was; (a) a full scale formal inquiry (b) into allegations involving moral turpitude or misconduct and which (c) culminated in a findings of guilt. It was held that if all the three factors are present, the termination would be held to be punitive irrespective of the form of the termination order.

6. Counsel for the petitioner on a pointed query would himself concede that prior to passing of the impugned order, no inquiry had been conducted against the petitioner and there was no allegation of any misconduct. Even a perusal of the order dated 10.05.2011 would make it apparent that it is an innocuous order not indicative of any stigma whatsoever.

7. In the pleadings on record, there is not even a single averment insofar as having attributed motive towards the Competent Authority or any other judicial officer. It is not even the case set out that the impugned order is vitiated by malafides.

8. In the light of the facts and circumstances of the case, it shall have to be construed that the order dispensing with the services of the petitioner while on probation was passed bonafide on account of his work and conduct having not been found upto the mark.

9. I am of the considered view that there is no infirmity in the impugned order which would warrant any interference. The writ petition is accordingly dismissed.