
(1964) 04 P&H CK 0003
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1789 of 1963

Sohan Lal

APPELLANT

Vs

The State of Punjab and Another

RESPONDENT

Date of Decision : 27-04-1964

Acts Referred:

Punjab Agricultural University Act, 1961 — Section 25

Citation : (1964) 04 P&H CK 0003

Hon'ble Judges : Grover, J;Falshaw, J

Bench : Division Bench

Advocate : B.R. Aggarwal, for the Appellant; M.S. Pannu, D.A.G. and Messrs H.L. Sibal, H.L. Soni and S.C. Sibal, for the Respondent

Final Decision : Dismissed

Judgement

Grover, J.—The relevant facts are already set out in the referring order and it is unnecessary to recapitulate them. It is somewhat unfortunate that when the matter was argued before me, certain relevant provisions were not brought to my notice and the points in the manner in which they were argued necessitated a reference to a Division Bench.

2. The short question is whether the petitioner who was holding a permanent post in the Department of Agriculture of the Punjab Government and who had been virtually compelled to join the service of the Punjab Agricultural University, could be charge-sheeted by the Vice-Chancellor of the University and an enquiry ordered against him on certain allegations and whether he could be placed under suspension on which he was only entitled to the subsistence allowance etc., as admissible under the rules. The position of the petitioner was and is that since he was only on Foreign Service with the University any enquiry into his conduct could be ordered only by the Punjab Government whose permanent employee he was before he was left with no option but to take up service with the University. It was also contended that it was only the employer who could suspend him pending any enquiry and since his employer was the Punjab Government, the

Vice-Chancellor had no authority to order the enquiry or place him under suspension entailing the consequences contemplated by rule 7.2, in Volume I, Part I, of the Punjab Civil Services Rules. The General law on the subject of suspension has been laid down by the Supreme Court in *The Management of Hotel Imperial, New Delhi v. Hotel Workers Union* (1950) 1 S.C.R. 476 and *T. Cajee v. U. Jormanik Siem* (1961) 1 S.C.R. 750. It has further been elaborately discussed in *R.P. Kapur v. Union of India* C.A. No. 467 of 1963, (Civil Appeal No. 647 of 1963) decided on 19th November, 1963. According to their Lordships, the general principle is that an employer can suspend an employee pending an enquiry into his conduct and the only question that can arise on such suspension will relate to the payment during the period of such suspension. If there is no express term in the contract relating to suspension and payment during such suspension or if there is no statutory provision in any law or rule, the employee is entitled to his full remuneration for the period of his interim suspension; on the other hand if there is a term in this respect in the contract or there is a provision in the statute or the rules framed there under providing for the scale of payment during suspension, the payment would be in accordance therewith. According to section 25 of the Punjab Agricultural University Act, 1961, (to be referred to as the Act) employees of the Teaching and Research Sections of the Departments of Agriculture and Animal Husbandry, who are either permanent or on probation, and are acceptable to the University shall be taken by the University into its service and treated as on foreign service. Section 29 empowers the passing of statutes which may provide, in particular, for the following :

* * * * *

(b) the election, appointment, and continuance in office of the members of the authorities of the University and of the officers, teachers and other employees of the University including the filling up of vacancies and all other matters relating to these authorities and officers, teachers and other employees for which it may be necessary or desirable to provide;

* * * *

(9) the number, qualifications, emoluments and other conditions of service of officers, teachers and other employees of the University and the preparation and the maintenance of record of their services and activities;

* * * * *

Section 30 prescribes the machinery for making of the statutes, By means of a notification dated 17th October, 1962, in exercise of the powers conferred by sub-section (1) of section 30, read with clause (b) of section 29 of the Act, the Governor of the Punjab promulgated statutes regarding, the exercise of financial and administrative powers by the officers, teachers and other employees of the University. Paragraph 3 of these statutes defines the powers of the Vice-Chancellor. Sub-clause (e) empowers him to appoint employees of the University

against sanctioned posts on scales of pay up to a maximum of seven hundred rupees per mensem. Another set of statutes were promulgated u/s 29 (q) relating to the number, qualifications, emoluments and other conditions of services of officers and other employees of the University not being teachers "Employees" have been defined in paragraph 1 (e) to mean "officers, and other employees of the University not being teachers and includes officers and other employees on foreign service with the University. Paragraph 12 relates to the penalties which may, for good and sufficient reasons, be imposed on any employee. Clause (i)(e) of this paragraph provides for suspension. Paragraph 13 relates to allowances and leave during suspension. It is quite clear from paragraph 12(i)(g) that where it is proposed to reduce an employee to a lower post or to remove him from the service of the University or dismiss him, then in case of an employee on foreign service a recommendation to that effect shall be made to the parent Department or Government and the parent Department or Government may take such action as it may consider necessary on such recommendation. Although clause (i) (e) of paragraph 12 relates to suspension by way of penalty, under the general law the employer would have the right to suspend an employee pending enquiry into charges of misconduct, according to the definition contained in paragraph 1(e), the petitioner would certainly be an employee of the University. His employer, therefore, namely the University, could under the general law order his suspension pending an enquiry into charges of misconduct and for that period he would be entitled to the subsistence allowance as prescribed by paragraph 13 of the aforesaid statutes. The Vice-Chancellor being empowered to make an appointment of an employee of the University against posts of scales of pay up to a maximum of seven hundred rupees, in which the case of the petitioner would be covered, could, therefore, order an enquiry against the petitioner and also suspend him, as has been done by means of the impugned order. All these provisions have been placed before us for the first time and were not referred to when the matter was heard by me sitting singly, and in the presence of these provisions, the validity of which has not been impugned, there is no merit in the contention which has seriously be pressed, namely, that the Vice-Chancellor had no authority or power to order an enquiry or to make the order of suspension in the terms in which it was done.

3. The other grievance of the petitioner that he had been forced into joining the service of the University against his wishes which was clearly in violation of rule 102 contained in Chapter X, relating to foreign service, of the Punjab Civil Services Rules, Volume I, Part I, has already been redressed by an undertaking having been given before me on 19th December, 1963 by the Punjab Government that the petitioner would be taken back in his parent Department forthwith subject to exigencies of service. It has been pointed out that so far he has not been taken back, but presumably that has been due to the pendency of the writ petition. There can be no doubt that the undertaking given by the Government will be duly honored.

4. For the reasons given above, the petitioner is not entitled to any relief, with

the result that the petition fails and it is dismissed. In view of the entire circumstances, the parties are left to bear their own costs.

Falshaw, C.J.

5. I agree.