
(2016) 04 SHI CK 0060
In the High Court Of Himachal Pradesh
Case No : LPA No. 154 of 2011

Suber Singh Prehar

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 01-04-2016

Acts Referred:

Citation : (2016) 3 HimLR 1417 : (2016) 2 SimLC 650

Hon'ble Judges : Mansoor Ahmad Mir, C.J. and Tarlok Singh Chauhan, J.

Bench : Division Bench

Advocate : Surinder Singh Saklani, Advocate, for the Appellant; Ashok Sharma, Assistant Solicitor General of India, with Angrez Kapoor, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mansoor Ahmad Mir, C.J.—This Letters Patent Appeal is directed against the judgment dated 30.11.2010, made by the learned Single Judge of this Court in CWP No. 571 of 2010, titled Suber Singh Prehar v. Union of India and others, whereby the writ petition filed by the petitioner came to be dismissed, for short "the impugned judgment", on the grounds taken in the memo of appeal.

2. The petitioner had invoked the jurisdiction of the Writ Court for quashing Annexure P3 dated 18.11.2009, whereby the agreement for his contractual appointment as Lab Assistant was ordered to be terminated and Annexure P4 dated 16.12.2009, whereby he was relieved and respondent No. 4 was appointed in his place, appended with the writ petition, and commanding the respondents to allow the petitioner to work as Laboratory Assistant in ECHS Polyclinic at Yol. Cant, on the grounds taken in the writ petition.

3. Respondent No. 3 has filed the reply to the writ petition. It is apt to reproduce paras 4 and 5 of the reply filed by respondent No.3 herein.

"4.That in reply to this para, it is submitted that the contents contained in this para relates to the petitioner and if the facts detailed therein are found correct

the same are not denied. However, it is submitted that the work and conduct of the petitioner was not satisfactory and there were complaints from the old Ex-servicemen patients about his mis-behaviour for which he was warned verbally and in writing by his superior officer in-charge vide their letter dated 18.6.2009 and 14.10.2009, copies of the same are being placed herewith as Annexure R-1 and R-2 respectively for the kind perusal of this Hon"ble Court. It is also humbly submitted that despite serving oral and in writing warning/counselling to the petitioner for improvement of efficiency in work and conduct, he paid no heed. Hence, the further extension on expiry of his contractual period was not granted by the replying respondent being competent authority under the provision of para 2c of Central Organization letter dated 14.7.2006, a copy of which is placed as Annexure R-3.

5. That the contents of this para are admitted to the extent that the petitioner was informed vide letter dated 18.11.2009, Annexure 18.11.2009 (Annexure R-4) by the relying respondent No. 3 that his contract agreement for contractual employment as a Lab. Asstt. In ECHS Polyclinic Yol Cantt has expired on 3.11.2009 and further extension of his contract will not be extended in the interest of Organization and he will continue to work in the existing post till new Lab. Asstt. Is employed with existing remuneration. The aforesaid communication was given to the petitioner under the provision of Central Organization ECHS letter dated 14.7.2006, copy of which is placed as Annexure R-3. It is further submitted that one month notice to the petitioner was not required to be served upon him on expiry of contractual period under the existing employment Policy. Reliance of the petitioner on the basis of contract agreement are applicable in case of premature termination of the agreement by either side whereas in the case of petitioner the contract has run full course and has not been extended further."

4. There were serious allegations against the petitioner that on 10th June, 2009 at about 8.30 p.m., he entered the premises of the Polyclinic and consumed liquor. He was asked to give his explanation. The petitioner had tendency to disobey the orders of the Commanding Officer. The petitioner on 14.10.2009, denied to accept the blood samples at about 11.00 hrs. It was reported by Lt. Col. B.S. Dhiman that when second blood sample was to be taken on 7.10.2009, the petitioner was found gossiping with the physiotherapist in her room.

5. The said allegations were brought to the notice of the petitioner vide Annexure R-1 and R2 appended with the reply filed by respondents No. 3 and have also been taken note of by the learned Single Judge in paras 4 and 5 of the impugned judgment. However, the petitioner has not replied/rebutted the said allegations, thus remained unchallenged. It is only after noticing the reply filed by the respondents, he has for the first time tried to explain it though half heartedly.

6. The contractual appointee cannot claim right to be re-appointed on contract basis, that too, when his conduct is not fair.

7. The Writ Court has rightly discussed all these issues in paras 4 to 6 of the impugned judgment, needs no interference.

8. Having said so, the LPA is dismissed along with pending applications, if any, and the impugned judgment is upheld.