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Court : Punjab and Haryana

Decided On : Jul-26-1990

Reported in : (1990)98PLR357

Judge : G.R. Majithia, J.

Acts : [Constitution of India](#) - Articles 226 and 227

Appeal No. : C.W.P. No. 7806 of 1989

Appellant : Santosh Kumar Sharma

Respondent : Haryana Land Reclamation and Development Corporation Ltd.

Advocate for Def. : H.S. Gill, Adv.

Advocate for Pet/Ap. : R.L. Chopra, Adv.

Judgement :

G.R. Majithia, J.

1. The petitioner in this Writ Petition under Articles 226 and 227 of the [Constitution of India](#) has challenged the order of his reversion from the post of a Manager, Haryana Land Reclamation and Development Corporation (in short the

Corporation) to that of a Deputy Manager, dated April 26, 1989.

2. The petitioner, who was working as a Deputy Manager with the Corporation was promoted as Manager vide order dated March 8, 1988. He was on probation for a period of one year in the first instance Rejoined as a Manager at Hissar on March 14, 1988. This probation period was extended by six months vide order dated March 14, 1989 on the ground that his work as Manager was not found satisfactory. The Corporation vide order dated April 26, 1989 reverted him from the post of Manager to that of Deputy Manager and posted him at Bhiwani. That order is under challenge.

3. The petitioner alleged that his reversion is punitive in nature and the persons junior to him have been retained against the post of Manager. He further pleaded that the order of reversion had been passed without any show cause notice and without holding any proper enquiry against him. It is further alleged that on March 14, 1989, the probationary period was extended for six months, but on April 26, 1989 he was reverted from the post of Manager to that of Deputy Manager and that the order was premature. Since the probation period had been extended, it was incumbent upon the respondent to watch the work and conduct during the extended period of probation and on the expiry of that period, the respondent could take action against him if so desired.

4. The respondent controverted the allegations in the writ petition and pleaded that vide letter dated June 26, 1988 the petitioner was called upon to show definite improvement in his working within fifteen days and the letter was issued since some complaints had been received from the Field Staff against the petitioner. The averments of paragraph 4 of the written statement read with letter dated June 26, 1988 leave no manner of doubt that the impugned order of reversion had been passed on the basis of complaints having been made against the petitioner by Field Staff. The reversion was ordered not for administrative reasons, but on the basis of complaints made by the Field Staff against the petitioner. The reversion was ordered without bearing the petitioner and the action was violative of principles of natural justice and the same is unjustified and improper. Reference can usefully be made to *Siriniwas Sharma, Head Analyst v. The State of Punjab*

and Ors., 1986 (2) S.L.R. 24.

5. Another aspect of the matter is that the probationary period of the petitioner was extended by a farther period of six months vide order dated March 14, 1989. This period was abruptly brought to an end when by order dated April 26, 1989 the petitioner was reverted from the post of Manager. The action of the respondent is arbitrary. The probationary period having been extended, the respondent ought to have waited for the expiry thereof for taking a decision whether to retain the petitioner to the post of Manager or to revert him to the substantive post of Deputy Manager. The respondent without any justifiable reason reverted the petitioner to the post of Deputy Manager. If the conduct of the petitioner did not warrant him to continue against the post of Manager and the reversion was necessitated because of the exigencies of the circumstances then a proper charge sheet should have been framed and served upon the petitioner and a regular enquiry ought to have been held before ordering the reversion. The petitioner did challenge this order by way of appeal, but the same was dismissed, by an order dated May 11, 1989 with the observations 'your appeal has been considered and rejected. Appellant may be informed.' It is unfortunated that the respondent did not dispose of the appeal after proper consideration and by passing a speaking order. In the circumstances of the instant case, I do not think that any useful purpose would be served by directing the respondent to reconsider the appeal of the petitioner of reversion and dispose of the same by passing a speaking order. Since I am satisfied that the order of reversion is punitive in nature and had been passed as there were complaints against the petitioner which were made by the Field Staff The respondent without framing a proper charge-sheet against the petitioner and without holding a proper enquiry against him passed the order of his reversion, which is wholly unwarranted and flimzy.

6. Thus, for the reasons recorded above, the order of reversion is set aside. The petitioner shall be restored back to the post of Manager. However, it is made clear that the respondent can, if so, advised proceed against the petitioner for any departmental action warranted by the true facts and circumstances, No order as to costs.

