

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

CWP No.17994 of 2013

Date of Decision: 28.07.2015

Vijay Laxmi

....Petitioner

Versus

State of Haryana and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. R.K. Malik, Sr. Advocate
with Mr. Kuldeep Sheoran, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

The grievance of the petitioner in the present petition is that she was initially appointed as Lecturer in Applied Science in Technical Education Department, Haryana on 19.08.1992 and she joined on the said post on 18.09.1992. Thereafter, she applied for the post of Extra Assistant Conservator of Forest in Forest Department, Haryana and consequently joined on 31.10.2002. The petitioner applied for protection of her pay and accordingly, her case was sent by the Forest Department to the Finance Department on 28.06.2007.

Learned counsel for the petitioner submits that as per instructions dated 29.10.1976, issued by the Chief Secretary to Government, Haryana and circulated to all Heads of the different departments, stating therein that in case, the temporary posts are in existence for the last more than five years or more and the work of which is of a continuing nature, the same should be made permanent by the Administrative Department after obtaining formal concurrence of the

Finance Department.

Learned counsel for the petitioner submits that in spite of specific directions issued by the Chief Secretary, the formal order was not passed, whereas, the petitioner was having more than five years of service and she was deemed to be permanent in view of aforesaid directions. The claim of the petitioner has wrongly been rejected only on the ground that she was not working against the permanent post and was not even confirmed.

Learned counsel for the respondent-State opposes the submissions made by learned counsel for the petitioner on the ground that the case of the petitioner cannot be considered as she was not even confirmed against the permanent post. These are only the administrative instructions, whereas, the case of the petitioner was to be considered in accordance with the Rules and the law. The instructions issued by the Chief Secretary to Government, Haryana are administrative in nature and only the guidelines have been laid.

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file.

The fact regarding earlier appointment and subsequent appointment is not disputed. It is also not disputed that the instructions were issued by the Chief Secretary to Government, Haryana regarding consideration of the case of those employees, who were working for the last more than five years. The claim of the petitioner has been rejected only on the ground that she was not a confirmed employee. Nowhere in the impugned order, it has been mentioned that the case of the petitioner was not considered in view of instructions issued by the Chief Secretary to Government, Haryana or she was not appointed against the permanent post.

Accordingly, the present petition is disposed of with a direction to respondent No.1 to consider the claim of the petitioner afresh in view of instructions dated 29.10.1976 issued by the Chief Secretary to Government, Haryana.

The necessary exercise be done within a period of two months from the date of receipt of certified copy of this order.

Disposed of accordingly.

28.07.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE